

San Francisco Bay Conservation and Development Commission

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March 13, 2020

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Peggy Atwell, Director, Administrative & Technology Services (415/352-3638; peggy.atwell@bcdc.ca.gov)

SUBJECT: Draft Minutes of March 5, 2020 Commission Meeting

1. **Call to Order.** The meeting was called to order by Chair Wasserman at the Bay Area Metro Center, 375 Beale Street, Board / Yerba Buena Room, First Floor, San Francisco, California at 1:05 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted (represented by Alternate Chappell), Commissioners Addiego, Ahn (Departed at 4:20 p.m.), Beach, Chan (represented by Alternate Gilmore), Eckerle (Departed at 4:12 p.m.), Finn (Departed at 4:12 p.m.), Gioia (Departed at 4:12 p.m.), Lucchesi (represented by Alternate Pemberton – Departed at 4:12 p.m.), McGrath, Ranchod (represented by Alternate Nelson), Randolph, Showalter, Tavares (represented by Alternate El-Tawansy – Departed at 4:35 p.m.), Techel (represented by Alternate Hillmer). Senator Skinner, (represented by Alternate McCoy) was also present.

Chair Wasserman announced that a quorum was present.

Not present were Commissioners: Association of Bay Area Governments (Butt), Santa Clara County (Cortese), Sonoma County (Gorin), Governor (Vacant), City and County of San Francisco (Peskin), San Mateo County (Pine), Marin County (Sears), Solano County (Spering), Napa County (Wagenknecht), U.S. Environmental Protection Agency (Ziegler)

3. **Public Comment Period.** Chair Wasserman called for public comment on subjects that were not on the agenda.

Chair Wasserman announced: I do not believe I have any cards for public comment. If there is someone who would like to comment on things not on the Agenda let me know. (No one gave public comment)

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the February 6, 2020 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of February 6, 2020.

MOTION: Commissioner Showalter moved approval of the Minutes, seconded by Commissioner Pemberton.

VOTE: The motion carried with a vote of 13-0-3 with Commissioners Addiego, Ahn, Beach, Gilmore, Finn, Gioia, Pemberton, McGrath, Randolph, Showalter, El-Tawansy, Vice Chair Chappell and Chair Wasserman voting, "YES", no "NO" votes, and Commissioners Eckerle, Hillmer and Nelson voting "ABSTAIN."



5. **Report of the Chair.** Chair Wasserman reported on the following:

Since we have not met in a while this is a couple of weeks old in terms of coming out in the news. There was a story in the New York Times in the middle of February in which the headline read, “A Plan We Don’t Want - Damming the North Sea”. They are looking at a proposal to build a dam that would stretch 300 miles from the coast of Scotland to Norway; another one roughly 100 miles would rise in the waters between northern France and southeastern England.

It is a little hard to believe that will actually happen but the very fact that it is being contemplated is a good thing because it demonstrates that people throughout the world are recognizing the very significant import of adapting to what is facing us.

There was a story in today’s New York Times reporting that the European Union Research Institute has predicted that half of the world’s beaches will be gone by the end of the century.

Not very many of us in this room will be here then. My nine-and-half-month-old granddaughter would be 80. But we know the reality is if we do not continue and actually make our efforts much more aggressive to control greenhouse gases this is going to happen. And also, to the extent that we need to adapt if we do not start the processes to do that quite soon we will not have the time or resources to adapt to save our beaches, our habitats, our people and our natural and built environment.

So the work we continue to do is desperately important. And it is good that there is a little discussion in the presidential debates about climate change. It is very bad that there is only a little bit of discussion.

So our mission, our efforts and our goals continue to be very, very important.

a. **Commissioner.** I am pleased to announce that the Governor has named Michaela Alioto-Pier to the Commission. I’m sorry to say she cannot attend this meeting. I’ve exchanged emails with her and look forward to talking with her and welcoming her to the Commission meetings themselves.

b. **Larry Goldzband.** I think you know that Larry is out for minor surgery and I am pleased to pass on that he is doing well and recuperating at home. Brad McCrea is the Acting Executive Director in his absence.

c. **Bruce Wolfe’s Passing.** I have the very sad news to report that Bruce Wolfe who retired about a year ago as Executive Director of the San Francisco Bay Regional Water Quality Control Board has passed away. He will be remembered by many for his remarkable ability to work with a wide range of stakeholders including wastewater, stormwater, and flood control agencies, ports, state and federal agencies, environmental organizations and elected officials. His contributions to the protection, restoration and enhancement of San Francisco Bay wetlands and habitat were invaluable and included working closely with BCDC in implementing the Long-Term Management Strategy for Dredging. He was always cheerful and optimistic. He was a good friend of BCDC and we will adjourn today in his honor.

d. **Comment Letter.** You have in your packets a draft comment letter to the federal Council on Environmental Quality regarding their proposed changes to the National Environmental Policy Act or NEPA. The comments present our concerns regarding these proposed changes including their proposed narrowing of the information a federal agency gathers as part of the NEPA process. Doing so would clearly negatively impact the federal consistency review process by making it more difficult for BCDC and other agencies to obtain the information needed to adequately complete a consistency review. I intend to send this letter unless I hear objections. Staff Counsel Karen Donovan is here if you have questions about it. One of the really troubling things about this is the core of CEQA and NEPA is really gathering information so that the public and public agencies making decisions can be informed. This narrowing is essentially an assault on that knowledge. And it is ultimately an assault on our ability to make good decisions.

I hear no objections to sending the letter so I will happily send it.

e. **Next BCDC Meeting.** Our next meeting will be in two weeks on March 19th and we expect to:

1. Hold a public hearing and possible vote on an amendment to the settlement agreement for Galilee Harbor in Richardson Bay.
2. Hold a public hearing and possible vote to initiate a Bay Plan amendment to the San Francisco Special Area Plan regarding the Klamath as a historic ship.
3. Hold a briefing on sand mining.
4. Hold a briefing on the update to the Suisun Marsh Protection Plan.
5. Consider adopting the Commission's 2019 Annual Report that has been postponed from this meeting.

f. **Ex-Parte Communications.** In case you have not filed a written report on any ex-parte communications you may do so verbally now. This concerns communication with people on an adjudicatory matter not legislative or policy matters although you are free to do that as well. Anybody want to make a verbal ex-parte report? (No one reported an ex-parte communication) None – thank you.

Acting Executive Director Brad McCrea will now present the Executive Director's report.

6. **Report of the Executive Director.** Acting Executive Director McCrea reported: Thank you very much Chair Wasserman.

Today we have a full agenda with a wide variety of issues, a Bay Plan amendment, a large residential and park project in Richmond and a series of briefings on regional adaptation, pending legislation, and State Route 37 in the North Bay. I have several updates so I will move through them quickly.

a. **Budget and Staffing.** On the federal budget front we received news from the Coastal States Organization that the Fiscal Year 2021 President's Budget, as expected, has again zeroed out the Coastal Zone Management Grants. While this is unfortunate, CSO reports that Congress has provided over the last 3 years a \$7 million increase; therefore, CSO is expected to move forward with a request for \$87 million which is a \$10 million increase over the prior year appropriation; an amount that was agreed to at the CSO Member Meeting held last November.

Speaking of the Coastal States Organization, Steve Goldbeck and I will be in Washington D.C. later this month for the 2020 Coastal States Organization Membership Meeting. While in D.C. we will also attend the NOAA Program Managers Meeting as well as discuss BCDC's Coastal Program during Hill visits along with representatives from the California Coastal Commission and the California National Estuarine Research Reserves.

On staffing, the month of February brought staff departures and arrivals. First, Clesi Bennett (stood and was recognized), who you will recall shepherded the Bay Plan Amendment on Environmental Justice and Social Equity has taken a job as an Environmental Scientist at the California Natural Resources Agency in Sacramento. Clesi will be working with the Deputy Secretary for Climate Change by assisting with the development of climate change strategies and implementation, in particular the State Adaptation Plan and the California Climate Change Assessment. Although we are sorry to lose her, we are thrilled for Clesi and her new opportunity and want to thank her for all she has provided to BCDC.

Also, one of our permit analysts, Sam Stewart, has recently left BCDC. Sam had some unforeseen visa issues and resigned last week. We want to recognize Sam, although he isn't here, for all the hard work he has done with BCDC and wish him success in the future. Both of those jobs are currently available and advertised.

On the plus side, this month we plan to hire Monique Dennis who will start with BCDC on March 16th as an Office Technician working in BCDC's Administration Department. Monique holds an Associate of Science degree in Social Behavior from Chabot College. And I'm sure Larry would want you to know that that makes her a Gladiator (laughter). Monique has held various receptionist and administrative assistant positions over the past 10 years. You will soon see her at Commission meetings and she will be contacting you for quorum updates and other Commission activities.

And BCDC has a new intern. A fourth-year undergrad at U.C. Berkeley majoring in Landscape Architecture, Wendy Zhang is assisting BCDC with public access-related matters through mid-May.

Before I leave the topic of staffing I would like to introduce an employee who started on Monday, Ashley Tomerlin (stood and was recognized). Ashley Tomerlin is our new Associate Bay Design Analyst which is a new position for BCDC. As a licensed, landscape architect Ashley will be advising the staff and applicants on the adequacy of shoreline access. And concurrently we have promoted Andrea Gaffney to Senior Bay Design Analyst which is a supervisory position. Both women are part of BCDC's Technical Advisory Unit. And I would also like to introduce our Sea Grant Fellow Victoria Kuhn who graduated with a Master's of Science and Environmental Management degree from U.S.F. where she researched eel grass habitat in the San Francisco Bay. And for the last two years Victoria worked as a biologist at a Bay Area consulting firm. And now at BCDC she is with the Sediment Management Team to further our work on regional sediment management.

b. **Policy.** On Monday, in Larry's absence, Jessica Fain and Steve Goldbeck attended the second meeting of CNRA Directors led by Secretary Wade Crowfoot and Ocean Protection Council Director Mark Gold. Incredibly, 17 agencies including those under the Natural Resources umbrella as well as the Department of Transportation, Office of Emergency Services and Cal EPA agreed shared Guiding Principles aimed at advancing coordinated, statewide action

on coastal climate resilience. Fortunately, those Guiding Principles look very similar to the ones that BCDC has been operating under and is continuing to develop within the regional adaptation strategy – Bay Adapt – which you’ll hear more about later today. Agencies are now considering their role in implementing these Guiding Principles and we shall provide a more in-depth briefing to the Commission at an upcoming meeting.

In planning news, we were all pleased to see that a recent edition of the CivicSpark Newsletter highlights planning manager Shannon Fiala in the “Partner Spotlight” section of the Newsletter where Shannon describes BCDC’s planning work and highlights its recent successes. CivicSpark is an AmeriCorps program administered by the Local Government Commission.

And while we are on the topic of planning, on February 13th BCDC staff held a well-attended, kickoff event for a potential update to the Suisun Marsh Protection Plan. Shannon will provide you with a synopsis of the kickoff.

Planning Manager Fiala addressed the Commission: As some of you may recall, almost a year ago in March of 2019 the Commission directed staff to consider whether changes are needed to the Suisun Marsh Preservation Act; to initiate an update to the Suisun Marsh Protection Plan in collaboration with the stakeholders in the Marsh; and to review each of the Suisun Marsh Local Protection Program or LPP components as required by the Marsh Act.

And we have made a lot of progress over the past year, as you have heard in various Executive Director Reports along the way.

In August 2019 we hired Rachel Wigginton to join my team and focus on Suisun Marsh policy issues.

Throughout the fall Rachel and I met with the seven local governments and special districts that implement components of the Suisun Marsh Local Protection Program. And in January 2020 we published seven letters summarizing staff’s review of those LPP components which was included in your packet in February.

On February 13th staff held a well-attended, kickoff meeting at the Solano County Events Center. We had attendance from local partners including staff representing the LPP component entities, Solano County, the cities of Fairfield, Benicia and Suisun City as well as the Suisun Resource Conservation District, the Solano County Mosquito Abatement District and the Solano County Local Agency Formation Commission as well as staff from state and federal partners including the Department of Water Resources, Department of Fish and Wildlife, Delta Stewardship Council, U.S. Fish and Wildlife and the U.S. Bureau of Reclamation.

After brief presentations on Suisun Marsh history and an overview of BCDC, Suisun marsh law and policies we spent most of the time in small group discussions exploring the question of “How can we continue to preserve and protect a functional Marsh over the next 50 years?” We had three focus areas: the natural environment, the built environment and public access. Rachel will provide more information to you on the outcomes of the workshop and next steps in a briefing at the next Commission meeting on March 19th.

We want to thank Commissioner Vasquez for his support throughout this process including attending almost all of our meetings and providing the venue for the kickoff workshop.

Acting Executive Director McCrea continued: On February 19th the San Francisco Superior Court issued an order on the Bay Stewardship Alliance's motion for attorneys' fees and costs in its Public Records Act case against BCDC. Our Chief Counsel Marc Zeppetello will provide you with a brief report on the Court's ruling.

Mr. Zeppetello presented the following: As I reported at the last, Commission meeting in late December the Bay Stewardship's Alliance counsel Baker, Botts filed a motion for attorney's fees and costs in the Public Records Act case that they brought against BCDC.

At that time they were seeking attorney's fees of approximately \$363,000.00 and they asked for the Court to award a multiplier of between 1.2 and 2.0 on those fees and also costs of approximately \$7,000.00.

At the time they filed their reply brief in late January or early February the fee had increased to \$393,000.00 because they claimed an additional \$30,000.00 for fees for preparing their reply brief.

The Court did not accept most of BCDC's arguments that the fee was excessive and should be reduced. But the Court did find that the amount of time and hours that the petitioner's counsel had spent on their fee motion, over 185 hours, was grossly excessive particularly because BCDC had already stipulated that the Alliance was entitled to an award of fees. So the Court reduced the amount of fees for the fee motion by 20 percent and also disallowed any fees for the reply brief.

So the ultimate order from the Court was to grant fees in the amount of approximately \$335,000.00 with no multiplier and \$7,000.00 in costs.

The case has already been resolved by entry of judgement. At this time we are in discussions with the Department of Finances to how the payment of the award will be processed but we have been assured that the fee award will not be paid out of BCDC's current budget for this fiscal year or the projected budget for the next fiscal year.

That's it, thank you.

Acting Executive Director McCrea continued: I would also like to inform you that as the Coronavirus continues to spread we are closely monitoring the situation at BCDC. We are regularly sharing updates with our staff as we receive information from Cal HR and the Natural Resources Agency. At the same time the senior staff is working together to ensure that we have in place a continuity of operation plan in place should the spread of the virus affect operations at BCDC.

You may remember that Larry Goldzband recently initiated a monthly speaker series at BCDC's staff meetings involving Commissioners. The speaker series is called, "Ask Commissioners Anything." (Laughter) Following the success of Chair Wasserman's talk in January and Commissioner Showalter's talk in February, Commissioner Gioia will visit with the staff here in our offices on March 30th. If you are interested in participating in the Speaker Series let me know or reach out to Larry when he returns later this month.

And finally, you are now receiving your expense forms electronically so be on the lookout for emails from Reggie Abad requesting that you open the file and digitally sign the form. It wouldn't be a meeting without mentioning the FPPC Form 700. Last Thursday I

emailed you a reminder about the deadline for the Form 700 and since then there has been a storm of submittals but there are only a few weeks remaining so get your forms in. The completed forms are due no later than April 1, 2020.

That completes my report Chair Wasserman and I'm happy to answer any questions.

Chair Wasserman asked: Any questions for Brad? (No questions were voiced) That brings us to Item 7 which is Consideration of Administrative Matters.

7. Consideration of Administrative Matters. Chair Wasserman stated: Erik Buehmann is here if you have questions regarding the Administrative Listing we mailed on February 28th. Any questions on the Administrative Listing? (No questions were voiced) Seeing none you are off the hook Erik and we will go to Item 8.

8. Vote to Remove the Bay Plan Water-Related Industry Priority Use Area Designation from a Site West of Pacheco Creek Near Martinez; Bay Plan Amendment No. 5-19. Chair Wasserman announced: This is a Commission vote or possible vote to remove a priority use designation from the Bay Plan Maps from a site in West Contra Costa County. We have heard a presentation on this. Cody Aichele-Rothman will provide the staff recommendation.

Director, Administrative and Technology Services Atwell: We are changing order.

Chair Wasserman asked: We are changing order?

Ms. Atwell replied: Yes we are changing order.

Chair Wasserman stated: I apologize Cody. I apologize to the rest of you.

Ms. Atwell announced: We are going to go to Item 9.

Chief Deputy Director Goldbeck chimed in: We will need 18 votes to pass the amendment.

Chair Wasserman continued: We don't have the 18. We expect to get additional Commissioners.

Ms. Atwell mentioned: We are two shy.

Chair Wasserman announced: We have staff roaming the streets so they can find Commissioners. (Laughter) Chair Wasserman moved on to Item 9 on the Agenda.

(Upon completion of Item 9 this Item was postponed)

9. Public Hearing and Possible Vote on the Terminal One Development Project in the City of Richmond, Contra Costa County; BCDC Permit Application No. 2018.006.00. (Taken out of order) Chair Wasserman stated: Item 9 is a public hearing and vote on the Terminal One Development project in the city of Richmond. There will also be consideration of a permit fee appeal for the project. We will vote separately on the two matters. Rebecca Coates-Maloon will introduce the project.

Principal Permit Analyst Coates-Maloon addressed the Commission: Good afternoon Chair Wasserman and Commissioners. On February 21st you were mailed a summary of a request by Terminal One Development LLC and the city of Richmond to develop a residential neighborhood and waterfront park at Dornan Drive and the Terminal One Wharf in the City of Richmond.

The approximately 13-acre, project site is located south of Brickyard Cove Road, west of the Richmond Yacht Club and east of Dornan Drive and the Miller Knox Regional Shoreline Park in the city of Richmond.

A Water Trail Site is located at Ferry Point Beach which is adjacent to the project site.

The proposed project would involve work within and outside the Commission's jurisdiction including construction of 316 residential housing units, approximately 2500 square feet of commercial and retail uses and approximately 5.33 acres of new public-access areas.

The project would be built in two to five major phases over about six years with the Waterfront Park to be constructed in the first phase of the project.

At build-out there would be approximately 590 to 920 new residents and workers at the site daily as well as additional visitors to the public-access areas and the retail facilities.

The site is a former industrial area which includes an existing concrete wharf at the site's southern shoreline.

As the applicants will further describe a Waterfront Park would be built on top of the existing wharf. The wharf would need to be retrofitted to accommodate development of the Waterfront Park, which would include construction of a concrete overlay on the wharf deck.

The project would involve no new coverage of the Bay beyond the existing footprint of the wharf.

The Commission's Engineering Criteria Review Board reviewed the seismic and engineering considerations of safely re-using the historic wharf as a Waterfront Park.

This slide shows the proposed dedicated public access and open-space areas. The project would result in approximately 5.33 acres of new public access including the approximately 1.15-acre, Waterfront Park on top of the wharf, extensions of the San Francisco Bay Trail along the shoreline and along Brickyard Cove Road, a shoreline ring road with accessible parking, a rail-to-trails pathway, a public plaza, a public paseo through the residential development, bicycle parking and other improvements.

The project would also provide a .68 acre, guaranteed open-space area over a portion of the Bay.

The project is designed to be mostly resilient to flooding assuming up to three feet of sea level rise and a 100-year storm event.

The wharf deck was originally constructed to an elevation that is not anticipated to experience over-topping from storm-driven flooding until sea levels rise by three feet or more, and the Waterfront Park will also include program areas that are further elevated.

Inland of the wharf structure the raised Bay Trail Loop is intended to provide flood protection for project elements located inside the Loop.

An adaptive planning process would be necessary to address potential impacts from flooding that would occur with increasing frequency after sea levels rise more than three feet, and the applicants propose to commence with an adaptive planning process in 2035 and to craft a plan that would be updated on an ongoing basis at least every 10 years in response to updated projections for sea level rise.

There is one portion of the shoreline to the south of the wharf that is relatively low-lying and vulnerable to flooding. This area would include a rails-to-trails pathway highlighting historic maritime-industrial uses of the site.

Adaptive measures could be implemented in the future to raise the grade of this area or public-access improvements may be removed to allow for managed-retreat of the shoreline in this area.

The Commission's Design Review Board commented favorably on developing the rails-to-trails pathway along the historic rail line for this value the interpretive element has for the Waterfront Park while recognizing that the feature would eventually be subject to flooding and would need to be retrofitted or removed.

The Staff Report highlights the relevant policies raised by the proposed project which include policies related to allowable Bay fill, including policies on safety of fills, natural resources, water quality and sea level rise and to whether maximum feasible public-access is provided consistent with the project and if the project is otherwise consistent with the Commission's policies related to public access, recreation and scenic views.

I will now turn this over to the project team to present the project in more detail.

Mr. Cleve Livingston addressed the Commission: Good afternoon members of the Commission. My name is Cleve Livingston and I am here today representing the developer of the project Terminal One Development, LLC.

In addition to myself I'd also like to introduce Lina Velasco who is the Community Development Director for the City of Richmond which is our co-applicant on this project. In addition with me here today is John Briscoe of the law firm Briscoe, Ivester and Bazil and John is the counsel for the developer.

I'd like to begin by thanking staff, in particular, Rebecca and also Ethan and Rafael and Andrea for all of the work that they did on this project. We spent many, many hours working through the conditions and the recommendations that staff has brought before you. I am very appreciative of the time that they spent and the energy they spent in trying to get this project ready to come to you for a vote.

I'd also like to thank Rebecca for her very thorough description of the project. It saves me some time and some of the slides that I'm going to go through I will just skip over because she has already covered them.

I'd like to start with sort of a before-and-after take on this project. This is a photograph of the project that was taken recently. It shows the Terminal One site in its current condition. It has two remaining structures on the site. One is a 95,000 square-foot warehouse and a 50,000 square-foot wharf.

A portion of the warehouse is built over the wharf and over the water.

This shows the site as it will be re-developed assuming the project is approved. It involves in general a residential development that will be developed on the interior of this site and then a Waterfront Park that will be developed around the perimeter of the site and will include the entire waterfront including the approximately 1,000 linear-foot-long shoreline and the entire 100-foot shoreline band.

This is a location map that will give you a sense of where it is located. It is in the southwest corner of the Richmond shoreline. It is just to the south of Point Richmond, the historic Richmond neighborhood and immediately adjacent to the Brickyard Cove neighborhood. It is very close to the I-580 Corridor and also is within easy reach of the new ferry terminal which is located by the Ford Manufacturing Plant.

This is a larger perspective of the site. The location of the site is relatively extraordinary. It is immediately adjacent to the 307-acre Miller Knox Regional Shoreline which is an extraordinary park and extraordinary, regional community resource. It is quite a beautiful park.

To the east of the site is the Richmond Yacht Club and the Brickyard Cove Harbor. You can see the entire southern front of the site and continuing over to the western edge of the site is all Bayfront.

I would like to give you some historical perspective on the site. This picture was taken in 1919 and it shows the warehouse and the wharf but as you can see between the warehouse and the shoreline it is all still open water. This shot was taken in 1939 and it shows the site and the fill has been placed and the site has been populated with storage facilities including above-ground, petroleum and storage tanks.

As you can see Brickyard Cove is still open water. There are some industrial uses on the shoreline but not many.

Here is a picture of the site in 2002. They discontinued use of the site as a port facility in the mid-1990s and basically it was abandoned in terms of any ongoing use but the above-ground, storage tanks had not yet been removed.

This is a picture of the site in its existing condition and I included this because it gives a pretty clear impression that this site is under-utilized at this point and it really is serving no purpose.

This shot gives you a sense of the neighborhood context. The site is immediately adjacent to the Brickyard Cove neighborhood. I will also point out that there is a development called Brickyard Landing which is very similar in character to the multi-family portion of the residential development that we are proposing on the Terminal One Site. It is four-story, condominium flats over a one-story, parking podium and there are five buildings similar to the number of buildings that we are proposing.

This is an image that gives you a sense of the view opportunities that are presented by the site. The views extend from Mount Tamalpais on the west all the way to the Albany/Berkeley shoreline.

This is an annotated site plan that describes the various features of the project.

Given the locational attributes of the site I think it is fair to say that this site provides an extraordinary opportunity for re-development. This annotated site plan describes some of the features of the re-development plan that we propose for the site.

Rebecca has already touched on a number of these features so I am going to move to a series of images that will effectively describe the residential portion of this development.

This is a rendering that shows the western elevation of Building 1 which is the building in the northwest corner of the site. This is the same building but looked at from the south looking north. You can see that these buildings make very widespread use of glass and glazing to connect to the interior to the exterior. They make use of a relatively soft palette of natural colors and materials.

This is looking down the Central Promenade which separates or divides the residential project in half. This is all publicly accessible.

This is the eastern elevation of Building 5 which is the building that is in the northeast corner of the site.

And this is a depiction of the single-family residences that will be developed along Shoreline Drive on the southern edge of the site.

The public-access areas and the open space constitute 44 percent of the total site area.

The Waterfront Park was the focus of our early planning efforts and it is the focus of your attention as well.

In many public-access plans that come before you, public space often is a tag-along design. It is a design that really is driven by the private development that it is connected with.

We took a very different approach. We made a decision very early on that we wanted to create a public Waterfront Park and that we wanted that park to celebrate the extraordinary opportunity that is afforded by the site to connect with physically and visually with the Bay shore environment that adjoins the project on three of its four sides.

We felt very strongly that if we could use the public Waterfront Park to create a sense of place built around an intimate and personal, public connection with the natural order and its shoreline setting we could then tie the residential neighborhood into this parkland framework and the private space would take on the character of the public space.

So, how did we go about doing this? We started by focusing on access. This exhibit shows the principal features of the Waterfront Park. These features have been designed with a two-part, public-access program in mind.

The first part of that program is – how do we get people to the site and from the site and how do we deal with circulation once people are on the site? There are four major features of the Park that address that particular objective. There is Shoreline Drive, the scenic loop road that runs around the perimeter of the site. That provides vehicular access to the waterfront. It also serves as a gateway to the adjacent, Brickyard Cove neighborhood.

Then we also are proposing an extension of the Bay Trail which would run around the outside circumference of Shoreline Drive. That would add the pedestrian access and the bicycle access to the waterfront.

Then we've introduced this Central Promenade that runs from north to south and splits the residential project in half. And this will be an at-grade paseo that will provide pedestrians and bicycle access between the Brickyard Cove, the corridor to the north and the waterfront and the Waterfront Park to the south.

And finally, we've included in the design of the Waterfront Park a number of trails and walkways which are intended to provide public access to the various features of the Park.

The second component of the public-access program involves creating programmatic features that will create opportunities for the public to experience and enjoy the waterfront in an intimate and personal way.

The main programmatic features involved in chasing this objective are the Terminal One Entry Plaza which is located in the northwest corner of the site. This is a small plaza that will be served by visitor-serving retail area and will have café seating and provide an opportunity for visitors to rest and interact with each other and with the shoreline environment. It is immediately adjacent to the Ferry Point Beach which is one of the designated parts of the San Francisco Bay Water Trail.

The second feature of the site that it is intended to be programmatically connected to the public-access objectives is that Central Promenade. That promenade not only serves a circulation function but because it provides an interface between the private development and the public development it also is intended to create opportunities for interaction and communication between parties that is part of the backbone of any community.

And then finally, there is the wharf. We are planning to retrofit that wharf and re-purpose it as a Park amenity. This shows the Entry Plaza and it gives you a little bit better idea of how that will be designed and how that will function. This is an image of the Central Promenade. We paid a lot of attention to that interface between the private development, the residential units that are along the promenade, and the function of the promenade as a public-access way.

This gives you some idea of the way in which that interface will work and the treatment that we've tried to add to the project to assure that there is a smooth interaction.

This is a shot of the wharf that looks at the various rooms on the wharf. The wharf features will include a picnic deck on the western end of the wharf, a multi-use lawn area, a children's play theatre, some coastal gardens that may include sculpture and a viewing deck on the eastern end of the wharf.

This is a representation of what those various features will look like. The wharf will also include a broad promenade along the southern edge of the wharf.

That is basically a description of the project and the thinking that went into the project. That completes my planned presentation. I'd be happy to answer any questions now or later.

Chair Wasserman stated: We don't have any speakers from the public. I have no cards. The public hearing is open. I have no cards and no one from the public is coming forward. I would ask for a motion to close the public hearing.

MOTION: Commissioner Nelson moved to close the public hearing, seconded by Commissioner Gioia. The motion carried by a voice vote with no abstentions or objections.

Chair Wasserman continued: All those in favor say "aye" (Commissioners in unison voiced "ayes") any opposed (No opposition was voiced). The public hearing is closed.

Are there questions for staff or the applicant?

Commissioner Gioia was recognized: What would be helpful is if – some of my questions may be impacted by hearing the staff recommendations. So are we going to hear the staff recommendations next? And then that may affect the questions that we have.

Chair Wasserman stated: That is fair, and I will give you a pass but we will make you first in that queue.

Commissioner Eckerle commented: Thanks to staff and the applicant for those helpful presentations. I have some questions around the sea level rise risks and flooding components of the recommendation mainly focused on the rails-to-trails portion of the public access.

In the Staff Recommendation there is language saying that this portion of the public access is going to be subject to flooding with a five-year storm event under current conditions and that it will not be resilient to flooding by mid-century, sea-level-rise projections.

I am curious about how we are able to make the maximum feasible public-access finding with that as a component of the full, public-access package particularly when it looks like once that access becomes flooded to the point where it is not used anymore it may be closed off. I know there is some language in there about potential adaptation of that portion but it wasn't clear to me how that decision would be made. So that is my first question.

Ms. Coates-Maldoon explained: The rails-to-trails pathway is using existing rail line that is currently in place. In order to create the pathway at that location and to have it serve its intended purpose to integrate the historic components into this site it would need to be at the current elevation.

And the Commission's Design Review Board commented favorably on the inclusion of that as an interim public-access feature with the understanding that over time something else will need to happen to that portion of the shoreline.

Commissioner Eckerle continued: It wasn't clear to me that once that is no longer useable we would require the applicant to mitigate for the loss of that component. I recognize that it is small that is something worth discussion.

Ms. Coates-Maldoon added: The other thing I would note is that the Staff Recommendation does include conditions for the development of an adaptation plan in the future. The applicant will be updating that plan every 10 years after 2035.

Commissioner Eckerle continued: My next question is that the Staff Recommendation says that they will start that adaptation management plan in 2030 and I just wanted to hear a little bit more about why we chose 2030 as the start and maybe not the deadline and also if we have concerns about what happens if we have increased frequency or level of sea level rise beyond what we are anticipating – what do we do in that time between now and 2035?

Chief of Permits Ethan Lavine replied: One reason for this is because it matches very closely the process that the City of Richmond undertook as they looked at the vulnerability of the site to flooding. And we wanted to as close as we could match that to avoid requirements that were at odds with what the City has already put in place.

And a big factor in our decision to allow those processes to sync up was that by and large this site is developed with the exception of the rails-to-trails portion to be resilient to up to three feet of sea level rise. We know that this will happen almost under any situation further into the future probably after mid-century.

For that reason, the 2035 date is actually a pretty early start for the adaptation process. If we are looking at the actual sea-level-rise elevations that we are using on this project it probably kicks in sooner than most of those we see for other large, mixed-use developments in terms of the actual time in which the first plan will come online.

Commissioner Nelson was recognized: I have a question about public access. I am referring to the slide that shows the principal features of the Waterfront Park. The key for that exhibit mentions on-street, visitor parking and it is a pretty good-sized site and is a long way for some members of the public with limited mobility to access the site. So I just want to make sure I understand where the visitor parking is and how much of it there is.

Commissioner Gioia chimed in: And when you show that could you show the boundary of the HOA with the City property on that as well? That would be useful to see the distinction.

Mr. Livingston replied: The property that is shown in white on this exhibit is the residential portion of the property, of the Terminal One Site. The area that is shown in green is the public Waterfront Park.

We've made provision for parking in two different ways. First of all, there are two parking, single-level, parking podia and they are on each side of the Central Promenade. So Buildings 1, 2 and 3, the multi-family Buildings 1, 2 and 3 and 11 of the single-family homes are associated with the first parking podia. Buildings 4 and 5 and 10 of the single-family homes are associated with the second parking podia.

The Central Promenade is at-grade. The white area on this slide is all a story above at-grade. It is the top of the parking podia, the area between the buildings.

So those two parking podia will hold 588 automobiles. That is more than enough to accommodate the residents, their guests and the employees of the project.

So we have basically taken care of all of the project-related parking by building these two parking podia.

In addition to that we are going to be providing 49 on-street spaces. And those will be limited in such a way as to discourage use by the residents, their guests or their employees. I believe 16 of those spaces are on the western reach of Shoreline Drive. An additional 13 spaces are on the eastern reach of Shoreline Drive. And then the additional spaces that make up the 49 total are on Brickyard Cove Road.

We've left the entire shoreline reach of Shoreline Drive free of parking except there are two handicapped, two ADA-accessible, parking spaces that are located immediately adjacent to the wharf but other than that we've tried to keep that reach of Shoreline Drive free of parking so that we can enhance the visual characteristics of the site for public Park visitors.

Commissioner Gioia was recognized: My question was on the parking. We actually had an email at our place that raised some parking issues. I live in Richmond and I represent this area so I know this area pretty well.

I know how much use the parks get along the shoreline and the Bay Trail. The area on Shoreline Drive, that is all City right-of-way; right?

Mr. Livingston responded: Correct.

Commissioner Gioia continued: What the letter raised was the issue of the City doing parking enforcement. Are there going to be hour limitations or is that something the City will address so that the residents won't be parking there or I should say the visitors to the residents don't park there and take away the parking of folks who want to use the Park itself?

Mr. Livingston replied: My understanding is that the conditions of approval that have been proposed by staff include a four-hour limit on that on-street parking.

Commissioner Gioia continued: That is what I wanted to hear on the record. Are there any changes to any of those in your recommendation you are going to be making? I always want to hear your final recommendation before asking lots of questions like this to save time.

Ms. Coates-Maloon explained: The current recommendation is the recommendation at the moment. It is the four hours. So Special Condition II.B.4.h which is on page 10 of your recommendation requires that the public spaces be provided free of charge and that they are time-limited to four hours and that they are designated with public shore parking signs, all of which are there to ensure that those spaces will remain available to the public.

Commissioner Gioia had procedural questions: So knowing how difficult it is to come in and change permit conditions things change and they are fluid. I live along the shoreline and I see these changes. What happens if the City in a couple of years says, gee – the time limitation should be less, should be more, we want the flexibility to change some of them but not all of them; what's the process for this? Do they have to come back in and get amendments to the permit?

Mr. Lavine answered: Yes they would in this case because the four-hour limitation is very clearly delineated in the permit.

It is possible that this would be processed as an administrative permit.

Commissioner Gioia offered a hypothetical: So if they said, - gee, our experience shows that it should be three hours, or it should be five hours or half of them should be four because some people are going to come there for short use, some people are going to come down there for longer uses; you know on the weekend you get folks spending the day out there at Miller Knox picnicking and so four hours may not be long enough.

I am talking as one who lives down in Richmond I see the practical use of the parks – having one four-hour is a good start but I want to make sure there is flexibility to the City based on experience and what residents may need and want to be able to alter that without having to go through a big, bureaucratic process.

Mr. Lavine explained: The City has the option to seek an amendment to the permit. It would be an administrative amendment to the permit most likely. You raised a really excellent point. The four hours is an acknowledgement that we want these spaces to turn over and we don't want people to use them as easy access to the nearby, residential uses but also to allow enough time for someone who is taking a long bike ride along the Bay Trail to have a place to park.

Commissioner Gioia added: And frankly if you go on a weekend to Miller Knox there are lots of families around Richmond who go down there and use it for the whole day.

The four hours may not be long enough and I'm not sure it should be much longer but I am saying we will have to see what the experience is.

Mr. Lavine responded: Absolutely, yes.

Mr. Livingston chimed in: I might just add to that when the City was in the process of having the EIR prepared this was an issue that came up. Parking was very carefully studied and the traffic consultant that the City uses suggested a list of measures that should be considered to discourage use of the on-street parking by residents, guests and employees of the site.

One of the mitigation measures in the EIR is that we need to work with the City to prepare a parking plan for those on-street, parking spaces. And that parking plan needs to consider those measures that are listed.

The four-hour limitation is one of the measures that were listed in the EIR. So this is an item that has received a lot of attention.

Commissioner Gioia opined: And four hours seems to make sense as a general number. I just think the practicality when you get out there and Richmond's planning director understands this and the uses of these parks and that you may get uses that will go beyond that and usually they are weekend as opposed to week day – those kinds of longer uses.

And so then the City would enforce the parking, hour restrictions there. That would be the City enforcing that.

Commissioner Gilmore addressed maintenance funding and responsibility: I have a question and it's on page 32 of the Staff Recommendation. It is Item 6. It's the last half of that second paragraph. Where it talks about the latitude it says, HOA will be principally responsible for funding the work of maintaining the public areas whether performed by the City or the HOA. I think I remember reading that somewhere in here it was going to be the City's responsibility to maintain those public spaces but what is really making me nervous about are the words "principally responsible" because what I don't want to do is get into a situation down the road where we are having somebody make a complaint that the area isn't well maintained and then we go and say, you need to maintain it and they say – there are no funds. And then we look at different entities pointing fingers at each other saying; well you were supposed to fund it or you were supposed to fund it.

I want to know which entity is responsible and what is the mechanism for funding those improvements?

Mr. Livingston responded: The developer of this project and the City have an existing land disposition agreement. And under that land disposition agreement the HOA is responsible for financing the maintenance.

We've been in discussions with City staff about the possibility of creating a lighting and landscaping district or some other mechanism whereby the City might be able and might be willing, this would of course have to be approved by the Richmond City Council, might be willing to bear some portion of those costs in order to reflect the fact that this Park is going to be of general use to the entire Richmond community.

So as things now stand - we, the HOA and the developer will be solely responsible for financing the maintenance. I think the language that is in the Staff Recommendation is intended to be able to accommodate some change in that where the City assumes some portion of the responsibility for that funding through the creation of a lighting and landscaping district.

Commissioner Gioia chimed in: I didn't quite understand because Commissioner Gilmore has a good question because there is an issue on this.

Commissioner Gilmore continued: I appreciate you trying to answer that question. The reason I asked this is because I am looking around and I am the only member of the Enforcement Committee here. So one of our problems that we see a lot on the Enforcement Committee is we get complaints from the public saying that – you know, the public access, the picnic tables or it is just not well maintained, whatever, whatever, whatever.

So the complaint comes to us and we start talking to the applicant and they say – well gee whiz, yes I know we are supposed to maintain it but there is no money. And we run into that problem all the time. And we are trying to think of ways upfront that we can side step that on the back end.

So part of that is nailing down which entity is responsible and to the best that we can nailing down the funding mechanism because otherwise, and this is not a jab at your company this is just an overall observation, because otherwise you get five years down the line and the Park is a mess and the public is upset and we don't really have a mechanism to bring things back in line with the permit when the applicant says – well we don't have any funding.

So that is why I am raising this question.

Commissioner McGrath weighed in on the issue: May I follow that up a little more specifically?

Chair Wasserman replied: You may but then I think we should actually go to the Staff Report because I think it will pull things together.

Commissioner McGrath continued: So I spent the last eight years in Berkeley on and off as chairman of the Parks and Waterfront Commission dealing with exactly this problem that following Proposition 13 funding for parks was not available commensurate with the rising cost of living and the staffing associated with maintaining the parks had gone from 44 to 22.

So I spent about eight years trying to get some of that back. Now I like the public access here. I think it is rather spectacular and I don't think we have any business fooling with the private open space or the Central Promenade which is outside our jurisdiction but I think it is exactly our business to make sure that the public access on the wharf which we are going to allow to stay and be reinforced gets maintained.

I understand the Staff Recommendation has the maintenance done by the City; the question that I've got and later the Homeowner's Association sort of – but the question here is the financial arrangement needs to be robust enough to increase over time as maintenance costs come over time. So my question to the staff is – how does this work? I mean this is new development. It does not have Proposition 13 limits that there really isn't enough tax to support the services. But how does that stay active over time? And how does the money go to the City if they do part of the maintenance earmarked for this, not for general maintenance?

I mean I have no objection if the City wants to help pay for the maintenance but I want to make sure it is maintained.

Commissioner Gioia chimed in: As someone who actually lives on the shoreline adjacent to a BCDC permit and has voted for an assessment district, let me tell you what has happened somewhere else in Richmond which maybe relevant for this to understand.

Many cities including Richmond get a lot of pressure to maintain all their parks in every neighborhood. One of the things that was done because of lack of funding for parks in the Marina Bay area which is the subject of probably eight or nine BCDC permits; the residents and businesses and all of us voted for an assessment which was about \$250 a year to maintain the public spaces and parks and trails in that area. And that money is only used for that area.

So I think Commissioner Gilmore really raises an important issue about - what is the funding source?

So what happened there is that the City in its justification, and I think it was totally legitimate, look, we have to maintain all parks equally in our community; not just the parks on the shoreline.

And so that is why the residents and businesses in the area said, Okay – we'll agree for an assessment to maintain the parks for this area because there were more park improvements that were needed.

So that is how the City dealt with it in that situation. And understanding that it is unclear to me that the maintenance section, this is why I wanted to wait to hear your recommendation, we are sort of getting ahead of ourselves – says here, that the maintenance is at the expense of the permittees. Well there are two permittees, the City and the developer. So it is not clear to me the details and maybe that is what we will wait to hear and then understand because I think the two points that are key that Commissioner Gilmore raises: Who is doing it and where is the money coming from? We want to make sure that is going to be the case.

Having personally lived it in another area where it has been a big issue that is how the City dealt with it was an assessment district which could be set up here. So we will wait to hear your recommendation and we can comment on what makes sense here.

Chair Wasserman chimed in: Thank you. I want the Staff Recommendation then we will come back including the answer to that question.

Ms. Coates-Maldoon read the Staff Recommendation into the record: On February 21st you were mailed a copy of the Staff Recommendation for BCDC Permit Application No. 2018.006.00 for the Terminal One Development Project. The staff recommends that you approve the permit application with conditions to ensure Bay resources are adequately protected during construction, ensure safety of the wharf through plan review and ongoing pile inspection and monitoring, provide and guarantee the public-access improvements and amenities presented today, permanently dedicate the .68-acre, open-water, Bay Tidelands area as open space and require that a sea-level-rise adaptation plan be developed by 2035 and updated every 10 years thereafter and implemented to take necessary adaptive measures.

With these and other conditions outlined in the Staff Recommendation the staff believes that the project is consistent with the Commission's law and Bay Plan policies and recommends that you adopt the recommendation of approval.

Commissioner Hillmer was recognized: I would like a clarification. Is the lawn area intended to be synthetic turf?

Ms. Coates-Maldoon replied: The lawn area in the center of the wharf has the option to be natural grass or synthetic turf. The applicants had not chosen a final candidate for this area. At this location staff believes that natural grass is generally preferable for lawn areas such as this because it is more inviting and the size and location of the lawn lends itself to more passive uses such as sitting and Bay viewing.

But Special Condition II.B.4.a.4 which is on page nine of your Staff Recommendation allows for the use of either natural grass or synthetic turf.

However, prior to the use of synthetic turf the permittees would need to demonstrate to the Executive Director that the use of natural grass is infeasible or that synthetic turf would provide a better overall experience for the public at this location.

Commissioner Hillmer continued: Mr. Chair the reason I asked is that cross-sections in my experience indicate that they are not deep enough to allow for anything but synthetic turf. And the planting character exhibit near the rear uses synthetic turf as the illustration for the lawn. So I just wanted to have that clarified.

Chair Wasserman asked: Does anybody want to respond to that?

Acting Executive Director McCrea responded: Two things Ethan; I believe the Design Review Board took this issue up. You might want to highlight that. And then maybe Rebecca and Andrea can confer about the cross-section.

Ms. Coates-Maldoon noted: The Design Review Board did look at this issue and they had commented generally favorably in terms of having natural grass at this location. I believe that they had asked the applicants, as part of their review, whether the soil depth was deep enough.

My recollection is that the answer was affirmative.

Mr. Lavine added: We've been told by the applicants that it is indeed feasible to plant natural grasses with this depth at this location.

It is hard to see from the plan view but this area is actually raised up a bit from the existing deck. It is in a box condition.

Commissioner Hillmer noted: Most of the cross-sections from my observation look as though the soil is the same depth as the sidewalk pavers which is just four to six inches.

The reason I asked this was building on the maintenance question that was raised earlier. If they plant grass and it dies it is going to be synthetic turf very quickly.

Mr. Lavine continued: Yes. The difference in elevation maybe if you look at a cross-section that shows the elevation of the existing wharf, the area closer to the Bay; that is about a foot higher than the existing elevation of the wharf. They put down some pavers. And then directly behind that there will be a wall. And I don't remember the depth off the top of my head but it is of several feet within which soils will be planted.

And then I think where it intersects with the actual shoreline the elevation of the shoreline there is going to be higher than existing. I think that is going to be raised up a little bit.

So the lawn is actually within a large planter box essentially.

Commissioner Hillmer continued his inquiry: So the full depth of the landscaping soil depth section on the section that is used in our packet titled, “Wharf Park Turf Area and Promenade” section – page 37. So would I then understand the actual depth of the section available for the landscaping materials would be to the bottom of the white instead of the top of the white?

Mr. Livingston chimed in: I think I can answer this question. That is correct. The various features of the Park are built up 18 inches over the surface of the Park. So there is sufficient room there to put a layer of soil in to support the grass.

And I see why this exhibit was being misinterpreted. But if we use synthetic turf we would be required to install some base for that synthetic turf and that is what is shown in the white.

Commissioner Hillmer stated: Your 18-inch clarification is very helpful. Thank you.

Commissioner Gioia continued: Relevant to the maintenance issue is this whole issue of synthetic and natural because if one looks at the experience of the parks along the shoreline in Richmond they are sort of a mixed-use.

People go down there and picnic and then there is a soccer game going on. So it’s not like it is all picnics or all play field, there is both.

And I can understand why there has been this various tension on this and I guess the way it is in the permit is it leaves it up to the Executive Director and maybe the experience out there will sort of – I could see how for maintenance, for lower maintenance and for having soccer games and picnicking, having synthetic may make more sense than natural just because of the maintenance and my experience in going down to parks down there is that both events happen. And it is a lot of maintenance to maintain grass when it is also a soccer field.

It sounds like you have set up a process to have a discussion and resolve this going forward.

To me, your thoughts on some of this maintenance are really important as the planning director. It is unclear in the permit who is paying for the maintenance of the public area.

I get the HOA is responsible for the maintenance of the HOA but who is responsible to do the, I’m sure it is the City, the question is – who is going to pay for it? Who is going to pay for the maintenance of the parks in the public spaces?

Ms. Lina Velasco addressed the Commission: Good afternoon Commissioners; Lina Velasco, Community Development Director for the City of Richmond. Thank you for considering this item this afternoon.

The way our land disposition agreement is – is understanding our resources are limited as well and that we do have an agreement that the Homeowners’ Association will fund the maintenance of the Park.

How it is accomplished could be through a contract services. It could also be our regular, maintenance staff. But as Cleve mentioned we are in discussion currently about forming a lighting and landscaping district.

We've approved several sub-divisions in the area that include public features such as Bay Trail. And so we are looking at maybe identifying a larger lighting and landscaping district which would have a public-benefit contribution on the City's behalf towards the overall cost of the maintenance.

Commissioner Gioia asked: Has there been discussion of a lighting and landscape district for the whole area down there? Realistically all the folks at Brickyard are going to utilize this. So you have a broader base of people who would pay. This would be just like what you did at Marina Bay you included the whole neighborhood which is thousands of units.

Is that the sort of discussion regarding a broader landscape and lighting district for the whole area?

Ms. Velasco answered: We are proposing to start a little bit smaller by the sub-divisions that are recently approved but have no homeowners yet. So we are working with the developers of those.

Over time there could be a benefit. There are several homeowners' associations in this area that are currently funding the maintenance of Brickyard Cove Road even though it is publicly accessible and used.

So we are in discussions with them as well as taking the maintenance of the road which then would allow for a broader lighting and landscaping district and an overall maintenance district.

We are at least starting with the large landowners that will have future housing.

Commissioner Gioia asked: Isn't it easier to enforce if you have the responsibility of a lighting and landscape district which is a public entity? Is it easier then to work on enforcing that? I feel more confidence in that than trying to go after a homeowners' association.

You could form a lighting and landscape district for this development alone. But is a more public version of having the HOA do it.

Ms. Velasco agreed: Yes because there is a contribution on the City's behalf and the fees over time can increase as well to consider additional costs.

Commissioner Gioia continued: The HOA would depend on the vote of the HOA where the lighting and landscape district could build in a CPI inflator. You don't need to worry about the politics of the HOA if they don't vote to increase it whereas with a lighting and landscape district you have an automatic increase through a CPI inflator.

Commissioner Gilmore weighed in: While I agree with everything that you said the landscape and lighting district is in the future and we have no idea if that is going to come to pass. And when I look at the language in the permit I don't feel like it is tight enough.

So I feel like there is a certain amount of wordsmithing that goes on whether it is something like – you know, the HOA will be responsible and then some other language about, if the City of Richmond then forms; I mean just something to really spell it out so we have an entity who is responsible.

I don't know if we can make this a condition of the permit that the HOA "will be responsible" and then we can talk about adding accelerators later when the landscape and lighting district, if and when it comes into existence –

Chair Wasserman interjected: I have a question or two –

Commissioner Gioia chimed in simultaneously: May I say one thing on the lighting and landscaping district?

Chair Wasserman replied: - of course.

Commissioner Gioia continued: What we have done in the county of Contra Costa is if we want a landscape and lighting district formed for new development what we do is we build that into our project approval because there is only one person who owns the property and they get to vote for it and it is the developer.

So what we do is we built in the formation of a landscape and lighting district into our conditions of approval and then require them to vote. So getting to your point – is it possible to build in an ability to say; gee, it's the homeowners' association or we are requiring a landscape and lighting district now that is basically the same folks that is part of the approvals.

I don't know if BCDC approvals are different than a city or county approval but we do this all the time to form special assessment districts. And the easiest time to form them is when there is one person who owns it and that is the person developing it and they get to vote for it and it is done. So have you talked about that?

Ms. Velasco replied: That is sort of our approach with the other sub-divisions in the area as right now that there is one landowner we form it and then when all the homeowners move into the area that has already been formed.

Commissioner Gioia continued: Getting to your point; what is the best language to put in here to ensure that it will be maintained?

Commissioner McGrath was recognized: I agree that an assessment district is an effective tool. Most local governments that have park departments do whatever they can with the money they have. My worry here is whether or not the inflators keep up with the actual costs.

I mean that was the problem in Berkeley and that went along for 20 years and the purchasing power had diminished.

It seems to me that what is necessary here is language that has a review of the financing arrangement that assures that once the developer moves out – I mean this is a big-money project, it is a cool project but once they move out that there is a financial arrangement that will be sufficient to accommodate inflation and costs. That is my concern.

So that there is an institution that is not subject to a vote by the homeowners' association and that there is an inflator which is sufficient and can be adjusted without a popular vote. That is my worry is -

Commissioner Gioia interjected: You can put the inflator in the original measure.

Commissioner McGrath replied: Right.

Chair Wasserman chimed in: So I am going to ask a question to our counsel and give you a little bit of time to think about it. And the question is whether we as a condition of the permit could require the creation of the landscape and lighting assessment district since the applicant has the power to create that. Think about that while I explore a little bit more.

As I understand from your comments the disposition agreement between the City and the developer as it stands today puts the obligation for maintenance on the homeowners' association recognizing that it could be supplemented by other sources including landscape and lighting. Is that correct?

Ms. Velasco answered: Yes.

Chair Wasserman continued: And in the negotiations did you discuss the issue of the problem of meeting increased costs and potentially requiring a vote of the HOA?

Ms. Velasco replied: I don't think we got to that level of discussion about increases over time of the costs to maintain. However, I think we are both recognizing that this Park as previously envisioned has changed. It has evolved through the public-review process. And it has certainly gotten a lot bigger than what we have described in the LDA which is great because that means that the public process works and we are enhancing public access to the shoreline.

So that is where the discussion has started about needing to form this lighting and landscaping district. And the reality is that you are going to have a homeowners' association right in front of this Park. And so you are going to have a lot of eyes and there is going to be a lot of attention and calls to the City about the maintenance.

And so we basically arranged that they will be responsible for the maintenance. So if they are feeling like it is not being well maintained then the homeowners' association is funding the costs of that.

Chair Wasserman added: And I don't know that if under the David Wright Sterling Act which governs HOAs that the developer who writes the CC&Rs for the HOA could build into that document that they are obliged, effectively without a vote, to meet the maintenance obligations imposed by – it would be fine by the City but certainly by BCDC – that would be another potential solution.

I think we are going to end up with two choices. One is, you-all might want to caucus a little bit and come back with a solution because by-and-large my sense is you have approval for the project but this is a very important issue. And you are a little bit of the victim of "We have not fully thrashed this out previously" but the Enforcement Committee has been in the process of trying to figure that out or we may have to continue this. And I don't want to do that. I want to keep this project moving but I think we need a clearer answer to this than we have as of this moment.

Commissioner Gioia had a question for Ms. Velasco: On this issue of synthetic versus natural because that can affect maintenance costs down the road a lot. And right now the Executive Director is given the final decision on this.

What is your sense on that? What has been the City's position on that?

Ms. Velasco replied: So we are concerned with grasses. I think native grasses, wild grasses; those tend to be okay but if it is going to be a more manicured there is higher maintenance costs. And I think the reality is that California often sees droughts and so we have water-use restrictions. And so over time what started looking really nice doesn't look so nice. And so I think it is just going to depend on the design and we are willing to work with the Executive Director to work through that.

But those are the considerations that our Design Review Board looked at as well. They looked at things like drought conditions and maintenance costs.

Commissioner Gioia pointed out: But you are talking about the playing field there because there will be natural grasses and natural landscaping in much of this; it's just that area that will get the more intense use is where you were suggesting that synthetic turf might be appropriate.

Ms. Velasco agreed: Right; the bio-swale that will have natural plantings and things like that - but more the seating area and the walking areas.

Chair Wasserman asked: Do you wish to caucus a little bit? I find assent from the applicant. So we are going to continue this momentarily.

Commissioner Gioia chimed in: Could Legal talk about whether we could require the lighting and landscaping district?

Chief Counsel Marc Zeppetello commented: I would like to comment on that and a few related points.

We don't think that you have the authority to require today that they form this special assessment district although you certainly could encourage them to do so.

Regarding this quote on page 32 about "principally responsible" I had thought we could perhaps delete the word "principally" but this is just a quote from the application. So I don't think that this is particularly binding.

But I would turn to the Special Condition B.11 that Commissioner Gioia talked about earlier. It puts the obligation for maintenance jointly on the permittees. And I think for at least the short-term until perhaps – I mean at the moment there is no HOA. So there is no HOA to be responsible. It is the developer, the applicant and the City that are responsible in the short-term.

So the HOA doesn't exist. And if this special assessment district were formed in and of itself that wouldn't make them a permittee and we would have no privity with them under the permit to force them to do anything or to be able to enforce against them.

So what I think needs to happen is that if this district were formed there would need to be a permit assignment or an amendment that would put them on the permit and then make it the obligation enforceable against them in the future.

Chair Wasserman announced: We are going to temporarily suspend this matter. Go think about it and see if you can quickly come up with a creative solution. I have great faith in you. (The applicants and staff convened in a separate room for discussion)

Commissioner Eckerle inquired: I have a follow-up question on the rails-to-trails piece. I am looking at page 39 and 40 of the Staff Recommendation where it says that this portion of the pathway will be subject to daily flooding and will at some point require either closure or implementation of adaptation measures. And then it goes on to say that public access is not guaranteed to be provided in this area after it becomes subject to regular flooding unless adaptation measures are pursued.

But I didn't see any requirement in the Recommendation to offset the loss of that portion of public access. I was just wondering if we were going on faith that that would happen or that it would be included in the adaptation plan. It is not said explicitly.

Commissioner McGrath commented: I think of this as actually a pretty-generous, public-access area. When I looked at that I saw – the Bay Trail goes along the frontage road. And I’ve ridden the Bay Trail out here probably 10 times a year for the last dozen years. We’ve got input from the Bay Trail staff that this is the way they want it. What I think works is that you can get off the wharf.

So the wharf is a separate promenade which will be very effective and very heavily used from what I have seen in other places but it is not actually the Trail. The Trail will remain continuous and water tight.

So I looked at the rail-to-trail as kind of a bonus as long as it lasts. And to try to alter it, I mean I’ve done this kind of thing; you really – once you alter a historic structure it is not really historic anymore.

Commissioner Eckerle replied: Yes, I am comfortable with that. I just think maybe we might want to be a little clearer that we feel that there is maximum feasible public access absent that component.

Commissioner McGrath added: Even with that being temporary.

Commissioner Eckerle agreed: Exactly.

Commissioner Gioia chimed in: My understanding is that Trails for Richmond Action Committee (Trac) which is really the main advocacy group in this part of Contra Costa a citizen-based group that gives input on shoreline access gave input into this process and signed off on the way the access looks today.

Bay Design Analyst Andrea Gaffney commented: Commissioner McGrath you are correct in that we saw the benefit of having the access while we have it as an added value to the project. But we also understood that it would be going away and that the historic relevance of it at its current grade, in its current condition, is the value that it brings for the time that it is available.

We also recognized that if and when it goes underwater there is possibly an opportunity for water access. So it may not actually go away as public access. It may just change.

And so that is where the adaptation remains flexible.

Chair Wasserman announced: We are going to go on to the next item so that we can let these very smart people do their creative work. And we are going to go to Item 10 and we’ll come back to Item 8 but we will go to Item 10 now.

(After approximately a 30-minute meeting in a separate room staff and applicants resumed discussion of Item 9)

Ms. Coates-Maldeen spoke: So I would like to invite Lina Velasco with the City of Richmond to come back up and provide you with a little bit more information on how property ownership will work at the site and how the maintenance is anticipated to work over time. And then we will show you some proposed revisions to the Staff Recommendation.

Ms. Velasco addressed the Commission: I just wanted to clarify long-term ownership. As I mentioned earlier the City is in a land disposition agreement. Our intent is to only sell the parcels for the residential uses. The City will maintain ownership of the road as well as the public, shoreline Park and Brickyard Cove is already an approved right of way. So I just wanted to clarify if that wasn’t clear earlier.

We also understand the maintenance responsibilities ultimately of the portions we will own will be on the City. The homeowners' association will maintain their publicly-owned areas. However, as I had mentioned earlier, the City is in discussion about creating a lighting and landscaping district or a community facilities district which are also described in our land disposition agreement as potential long-term, funding mechanisms for the long-term maintenance of these properties.

And I can't obligate our counsel because it does require a vote. But it is something that staff is discussing with the applicant for the project. And so it is something that will be taken to our Council for a formal vote soon. We are hoping in April.

And so we are in agreement with the staff's modifications to the conditions that they will be recommending.

Commissioner Gioia asked: Is the City maintaining ownership of the promenade, this Central Promenade as well or when you said the Park areas does that include the Central Promenade or not?

Ms. Velasco replied: I believe it does, yes.

Chair Wasserman chimed in: Let's be clear about that. Who is going to own the Central Promenade?

Mr. Livingston answered: That decision has not been finally made yet. From the developer's perspective we would like to maintain our acquired ownership of that area and then we would work with the City to basically – we would be responsible for maintaining it but we would also work with the City with respect to any maintenance requirements that were not contemplated in the land disposition agreement.

Chair Wasserman continued: And putting aside the role that the landscaping and lighting district might play, if the developer acquires it I assume ultimately the responsibility for maintaining the central promenade shifts to the HOA.

Mr. Livingston stated: That is correct.

Chair Wasserman continued: Let's try the Staff Recommendation.

Ms. Coates-Maloon presented the following: We have a proposed revision to the Staff Recommendation regarding the assignment of the maintenance responsibility with some changes to Special Condition II.B.12 which is on page 13 of your Staff Recommendation.

Until such time as a community facilities district or lighting and landscaping district is formed both permittees would still be responsible for maintenance under the previous special condition which is Special Condition II.B.11 which is on pages 12 and 13 of your Staff Recommendation.

We are proposing changes to Special Condition II.B.12 to add, "such as a Community Facilities District or Lighting and Landscaping District" part way through the first sentence and then to add a sentence at the end to say, "the financing mechanism makes provisions to account for increased maintenance costs over time."

So under this condition the Executive Director would have authority to review and accept any assignment for the maintenance obligations to a community facilities district or the lighting and landscape district or whatever that ends up being.

And then one of the criteria that the Executive Director would be looking at would be that the financing mechanism is accounting for those increased maintenance costs over time.

Mr. Zeppetello stated: And I would just add to what Rebecca said that this as currently drafted this condition does give the Executive Director the authority and discretion to assess whether the assignee would be capable of complying with the conditions.

And so we thought that the basic construct of this existing condition really met some of the concerns that were expressed by the Commission. The applicants agreed to insert the language of community facility district or a lighting district but as was said they can't commit to that today. But they have gotten the message here today that an HOA is likely not going to be something that the Executive Director would find to be an acceptable assignee for this obligation.

Commissioner Gioia requested: Could you scroll up so we can see that full condition? As it is now it is at the expense of the permittees which is the City and the developer. And so that is what it will be until this assignment occurs and the Executive Director will have the final ability to approve that assignment.

Ms. Coates-Maldoon replied: Correct.

Commissioner Gioia stated: That sounds good.

Chair Wasserman asked: What is the projected time for sale of the whole project? I think this is a developer question.

Mr. Livingston answered: I can't say for certain when that will occur. There are a number of steps that we still need to take in terms of preparing to close on this transaction. But under the LDA once we get our final entitlement then we have 180 days to get to closing.

Chair Wasserman continued: Right. But that is not my question. You get to closing and you take possession of the land.

Mr. Livingston responded: Correct.

Chair Wasserman continued: Then you actually start the wonderful process of construction. And once constructed you start the sales program for the property.

Mr. Livingston answered: Right. Well I think that it will take approximately a year after we start construction. And we would try to start construction as close to the closing on the property as possible.

It would take approximately a year to get the site work done. And there is a lot of site work that needs to be done on this site and get the podiums constructed and then another year to get the buildings – the first phase of development to a point where we could begin selling units.

Now all of the public improvements are part of the first phase of development. So those public improvements would be all completed and I think they are required to be completed before we can get occupancy permits for the buildings.

Chair Wasserman asked: And are you going to build the residential project in phases?

Mr. Livingston responded: Correct.

Chair Wasserman sought clarifications: What is the rough guess of how long until you are able to sell the final units in the last phase?

Mr. Livingston stated: I would say two and a half years. Oh – in the last phase?

Chair Wasserman repeated: Yes, in the last phase.

Mr. Livingston replied: I think our pro forma assumes a five-year build-out.

Mr. Lavine chimed in: I will add that at least as it is established now through the Recommendation that the authorization for this permit runs through December 31, 2026.

Chair Wasserman continued: The reason I am asking this is the applicant is a single-purpose LLC as all development entities are – at least I make that assumption.

So long as you have not sold the last unit there is an entity there, financial resources are at some question towards the end but there is something significant there.

So the one request I would have, and I don't know if this needs to be a formal permit change or not, is that the Commission get a report on where things stand in some reasonable period of time that's maybe two years or maybe even three years – but I think it needs to come back to us so this doesn't slip away.

And frankly, partly as Commissioner Gilmore said, this is an overall problem we are dealing with. So you are a little bit of the guinea pig in certain respects. But I'd like that think about how that comes back. I don't care that it is in the permit. I just want to make sure we have that.

Mr. Lavine stated: We'd be happy to do that.

Chair Wasserman acknowledged: Thank you.

Mr. Livingston added: And that would also work from our perspective.

Commissioner Gilmore sought perceptual confirmations: I think I'm hearing this but I just want it clarified. So the assumption is that the community facilities district or lighting and landscaping district will come into existence before the homeowners' association and all the CC&Rs because if it is the other way around I'm afraid that homeowners get an opportunity to vote.

So I just want that timing clarified.

Mr. Livingston responded: I'd have to think through the order in which these steps might be taken. But it seems to me that we would proceed – one of the things that is very important is before you form a CFD or a lighting and landscaping district you want to form it when the property is still under single ownership.

Commissioner Gilmore agreed: Correct.

Mr. Livingston continued: And so, any district that we are going to be forming will be formed after we acquire the property but before we sell any units.

Commissioner Gilmore replied: That is what I wanted to hear.

Chair Wasserman asked: Any other questions? (No other questions were voiced)

MOTION: Commissioner Gioia moved approval of the modified Staff Recommendation, seconded by Commissioner Showalter.

VOTE: The motion carried with a vote of 15-0-0 with Commissioners Addiego, Ahn, Gilmore, Finn, Gioia, Eckerle, Pemberton, McGrath, Nelson, Randolph, Showalter, El-Tawansy, Hillmer, Vice Chair Chappelle and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

Chair Wasserman stated: The motion passes. Congratulations and thank you for your hard work and creativity.

I want to make a comment just in case there is anybody in the audience waiting. Item 8 is going to be postponed because we simply don't have any way of having the necessary 18 votes.

That brings us to the second item here. There is an appeal of the permit fees.

Chief Counsel Zeppetello presented the following: As you know the Commission has adopted by regulation a set of permit application fees that with some exceptions that are not relevant here are based on total project costs.

The Commission's fee regulation defines total project costs to mean all expenditures, I'm paraphrasing, all expenditures made or to be made for designing the project plus the estimated costs of construction of all aspects of the project both inside and outside the Commission's jurisdiction. That is in Appendix M, the fee regulation.

In this case when the applicants submitted their application in November of 2018, they submitted a fee of approximately \$27,000.00 based on a total project cost of approximately \$15.8 million. That total project cost was for what they characterized as the Terminal One Waterfront Park Project.

Upon review the staff determined that the fee that had been paid was not actually based on the total project cost as defined in the regulation. And the applicants subsequently conceded that the fee was not based on the costs associated with the residential component of the Terminal One Project.

In October of 2019 the applicants submitted a revised estimate of total project cost of approximately \$211 million for use in calculating the fee. This total project cost, estimate incorporated the total costs involved in the Terminal One Waterfront Park and also the residential component.

Using this total project cost estimate the applicable fee is \$232,623.00 as shown on the last part of this slide which is included in a letter from the applicants from October of 2019.

The staff reviewed and accepted this total project cost estimate and filed the application as complete at that time.

And the applicants also paid the balance due of the application fee of over 232,000 less the fee that they had paid originally.

The Commission's regulations allow an applicant to appeal a fee determination provided they pay the fee pending resolution of the appeal and also submit a letter explaining why they believe the fee is incorrect.

In this case the applicants did that with a letter of October 1, 2019. That letter also attached a letter that had been written by the applicant's counsel Mr. Briscoe from July 22nd. Both of these letters are in the Application Summary that you received dated February 21st. And also as part of the Application Summary there is a letter from me from August 12th of last year responding to Mr. Briscoe's letter.

The Appendix M fee regulation provides that when an applicant appeals a fee the Commission shall determine the correct fee at the time it votes on the application. So that is the issue before you on this appeal.

Since this is Terminal One's appeal I will turn the floor over to their counsel Mr. Briscoe to present his arguments. After Mr. Briscoe's presentation I will respond to the appeal on behalf of staff and present the Staff's Recommendation. Thank you.

Mr. Briscoe addressed the Commission: Hello Chair Wasserman, members of the Commission – I am John Briscoe. I am going to ask you Chair Wasserman; may I have one brief reflection on Bruce because you were the one that just notified me that he had died. I usually read the Irish Sporting pages and I missed it. So if I may have one, brief anecdote to tell about a dear friend?

Chair Wasserman replied: You may certainly.

Mr. Briscoe continued: About 20 years ago I had a client who got very cross-wise with the Water Board. And it was really intense. Word got to Bruce. I hadn't been to any of the meetings but word got to Bruce and he said, what is going on? And I said, all I know is there is a lot of acrimony and fireworks. He said, is there anything I can do?

I said, your presence at a meeting is always oil on troubled waters. He said, okay – I'll call a meeting.

Now at this time our daughters were freshman at Tulane, same age – different high schools, friends. And Bruce and I had been talking about how we are going to have to work a hell of a lot longer to pay these tuition bills. You know the kids are going to graduate debt free but daddy is not.

So we all sit down in the meeting, tensions are very, very high with about nine people in the meeting. Bruce comes in last with a serious demeanor. He sits down and throws me something across the table. It is a T-shirt that reads, my daughter and my money go to Tulane. (Laughter)

Well everybody had to see it and then ask, what is this all about? There were great laughs all the way around and needless to say he worked out a solution.

I have a thousand other recollections but thank you and I am absolutely heartbroken.

Your counsel my good friend Marc has given you an excellent presentation. Cleve, Rebecca and Lina got to make the fun presentations today of a very, very great project that we worked a long time on. I get the unhappy assignment of coming to you and saying, your application fee is outrageous.

And we are doing this appeal pro forma as we must. I am not going to ask for a straw vote whether anybody thinks that anything I say can change their mind from the fine opinion that Marc has written.

And as Holmes said, in a concession to the shortness of life I'm going to keep it brief. But I will say one thing that has been very gratifying about this exchange of studiously thought-out briefs is to learn that my good friend, your counsel who went to the top law school not only in the state of California but in the United States was Editor In Chief of the College Law Quarterly.

Mr. Zeppetello replied: Correct.

Mr. Briscoe continued: Okay. It is very gratifying to learn that even he can be wrong at times. So it warms my heart Marc, thank you.

I'm not going to read our legal briefs nor even recite their conclusions and their arguments but I will ask you to consider this. This site is 13.7 acres and I ask you to keep that number fixed in your head. Only 3.5 acres are within your jurisdiction.

The fee that we initially proposed was for all of the project costs associated not only with those 3.5 acres but for the additional two not in your jurisdiction that will be part of the Park.

None of the big costs of the residential development. They are huge costs. And that is what drove up the price of the fee.

It strikes the person on the street and I like to play this game by taking someone off the street and say, you're applying for a permit from some agency and they charge you a fee that is based – imagine an oil refinery, okay a huge oil refinery, 200 acres and a Corps permit is needed in the Gulf of Mexico for the pipe that goes out. Imagine if the fee was charged on the costs of the entire petroleum facility. That is kind of the example.

What is going to come home here 13.7 acres here, there is a piece of property if the dice had, Mayor Butt is not here today, but if the dice had landed a little differently Mr. Livingston and I might be here before you today with the application of the City of Berkeley, the City of Albany and Golden Gates Fields for the second campus project for Lawrence Berkeley National Lab and so forth. Instead it went to Richmond Field Station.

But what is interesting about that project that is exactly 10 times the size of this one – 137 acres. Less than an acre, when that is developed, less than an acre of that property will be in your jurisdiction. And what will be proposed for that is probably a little bit of grass but there will be something of the order of five million square feet of office space.

The Trans America Pyramid is half a million. Okay 10 Trans America Pyramids. And your fee is going to be calculated on the basis of all that notwithstanding that you have just this little slice. That is what I will leave you with and spare you any further rasping of my voice.

Chair Wasserman stated: We appreciate your little slice. Thank you sir.

Mr. Zeppetello responded: And I will respond and try to be brief but, as I must, I would like to summarize the issues in my letter of October 12th.

The California Constitution authorizes the imposition of a charge or fee quote, for the reasonable, regulatory costs to the state incident to the issuance of licenses and permits. That is the Constitution Article 13A, Section 3. The Constitution further provides that a fee is valid provided the fee does not exceed the reasonable costs of the government activity for which the fee is charged and the manner in which those costs are allocated to the payer bears a fair or reasonable relationship to the payer's burdens on or the benefits received from the government activity.

Here basing permit application fees on total project cost does bear a reasonable relationship to the applicant's burdens on and benefits received from the Commission because the fees determined based on total project costs are generally proportional to the regulatory costs incurred by the Commission and its staff in reviewing and processing an application with larger and more complex projects requiring more staff time and being assessed a higher fee than smaller, less complex projects.

Basing permit application fees on total project costs is also reasonable because under the McAteer-Petris Act and the California Environmental Quality Act the Commission and the staff are required to consider an entire project in processing a permit application including the relationship between components of the project that might be within or outside of the Commission's jurisdiction.

As you recall from our recent discussion of the permit fees in the rulemaking context the existing fees were established with a goal of recovering from permit applicants on an annual, average basis, 20 percent of the Commission's total regulatory program costs.

So the application fees are directly related to the costs of the Commission's regulatory program and they do not exceed the reasonable costs of that program. In fact, they only recover a portion of those costs.

In this case there are a number of examples of the work that the staff had to do and some of the considerations that the Commission considered today about the relationship between the residential components of this project and the Park.

And to summarize those included the demand for public access generated by the residential development and how that would relate to public-access demand by people coming to the shoreline park from offsite. There were traffic circulation and parking issues associated with the relationship between the residential development and the open space. There was the residential project's impacts on shoreline views from public roads and from the Central Promenade which would cut through the residential development. There was the project sea-level-rise adaptation strategy that include measures to ensure that the public-access areas would remain viable for as long as the residential development is in place. And there was also the project's containment strategies that would be located within the 100-foot shoreline band but would also be in place and needed to protect the residential development.

So these are just examples of how on a project like this the Commission and the staff need to consider the whole project and drawing an arbitrary line and saying that the Commission only can charge a fee for costs associated with what is in the Commission's jurisdiction and the Corps area which is an argument that was made that the Commission only has jurisdiction to look at those aspects of the project within its jurisdiction and can't look at the upland – in my view there is no merit to those arguments.

What the applicants are really arguing here is that there is some unfairness or it's not reasonable to charge a fee in cases where a substantial portion of the costs relate to the costs outside the Commission's jurisdiction. However, as I noted previously the Constitution authorizes the imposition of a fee for the reasonable, regulatory costs to the state and total project costs is a reasonable measure of the regulatory costs incurred by the Commission and staff.

Even if in some cases it could be argued that a fee does not bear a reasonable relationship to the benefit received would not make total project costs an invalid measure of assessing a permit fee.

A regulatory fee does not become a tax simply because the fee may be disproportional to the service rendered to an individual project. The question of proportionality is not measured on an individual basis but rather measured collectively considering all payers. That is

a paraphrase from a California Supreme Court case decided in 2011. That case and three other Court of Appeal decisions that support that proposition are cited on page seven of my letter that is in your packet.

Mr. Briscoe referred to a possible, hypothetical, future, permit application that may come before you on the Golden Gates Field Project and made some other analogies. Those cases are obviously not before you today. The issue before you today is what is the correct fee in this case for this permit application?

And with that I will provide the Staff's Recommendation.

The staff recommends that the Commission find and determine that the correct, permit, application fee for the Terminal One Project is \$232,623.00 based on a total project cost of approximately \$211 million as shown in Attachment 2 to their letter which is on the screen and is set forth in more detail in their letter dated that date which is in the packet with the Application Summary. Thank you.

Chair Wasserman continued: My question is, and I recognize your point that each fee and project is considered separately, but this approach is the consistent project that the Commission has applied to fees for these kinds of projects. Is that correct?

Mr. Zeppetello replied: Yes, this is consistent with past practice and the definition of total project cost that has been part of the regulations since 1975.

Chair Wasserman acknowledged: Thank you. Questions from the Commission?

Commissioner McGrath was recognized: Two questions. Counsel I remember when we discussed fees one previous time. I asked you and I want to put on the record whether or not our fees capture the actual cost writ whole of the regulatory activities.

My memory is they don't come close. They are about 25 percent. Is that correct?

Mr. Zeppetello responded: They were set to be 20 percent in the existing regulation. When we did an analysis of that for the current permit fee amendment that the Commission considered a few months ago we found that they were approximately a little less than 20 percent over the last five years that we surveyed.

In the permit amendment that you approved but has not yet been approved by the Office of Administrative Law you increased the target to 40 percent.

Commissioner McGrath noted: So, in fact, we are subsidizing development which might be a good idea given the cost of housing. But I just wanted to make that point on the record.

The second thing that I wanted to ask you is other than the abstract construction, now you have to remember John has been known to say that he has never seen Jerry Adams and me in the same room at the same time (Laughter) – he loves the joke. He has told it more than once and it is true. (Continued laughter) But did he bring anything to bear specifically rather than the principled argument that much of the development is outside – about the specific costs of reviewing this particular development?

Mr. Zeppetello answered: I don't believe so. He may speak for himself but I don't think that was in the letter.

Commissioner McGrath continued: And the point I wanted to make with those two questions was we don't charge everything that is required to do the regulatory activity.

I agree with our counsel that this was an inordinately complicated matter. And I am not unsympathetic to an equity appeal that is supported by substantial evidence that shows the equities.

And I will turn to his example. If there was a permit for a new, oil terminal or something like that as opposed to an existing, oil facility the amount of work that would be entailed that would be associated with that Corps of Engineers permit might be dramatically different and the equity might be dramatically different.

So as I said I am not unsympathetic to a detailed argument that establishes that there is great inequity in the imposition of the fee but I don't see that argument before me now so I am unpersuaded.

Commissioner Nelson was recognized: Like you said that the formula for calculating this fee is consistent with our past practice for many decades.

I just wanted to ask about appeals. Are you familiar with other cases or are there other cases like this where an applicant has come to us appealing fees based on fact patterns like this where we have granted those appeals?

Mr. Zeppetello replied: Not to my knowledge. The one case in recent years where there was a threat of an appeal was Treasure Island. Treasure Island told us they would appeal but before the permit matter got to the Commission they withdrew and did not formally make one so it did not go to the Commission.

And my understanding from speaking with John Bowers at the time was that as far as his recollection went back a prior 10 years there had never been an appeal to the Commission.

Commissioner Finn asked: And did I hear you say the fee doesn't even cover all the staff costs? So if asked you could show a total of what staff spent versus what the fee was paid and show that it didn't cover everything?

Mr. Zeppetello explained: Well we don't actually track staff costs on a permit-by-permit basis, but our fee regulation requires or provides for the Executive Director to do a five-year review of total regulatory program costs compared to permit fees received. When we did that for the last five years we just about met the target of recovering 20 percent over the costs of the program on an annual, average basis.

Commissioner Finn replied: Okay because I would remind you that Proposition 25 or 26, I forget what it was, did require that fees should cover all costs of staff's time. But if you are saying it doesn't, they have to be careful what they ask for – it could get even higher. (Laughter)

Mr. Zeppetello noted: Well that was one of the alternatives considered in the fee amendments that the Commission chose a different alternative.

Chair Wasserman added: And this doesn't, by any means, dictate the results on this appeal but I would note for the record that these fees do not come to BCDC they come to the state who, of course, pays for our operations. But they do not come to us.

I do not have any cards. Is there anyone from the public who wishes to speak? (No public speakers came forward) Seeing none I would entertain a motion to approve or not approve the Staff Recommendation.

MOTION: Commissioner Hillmer moved to approve the Staff Recommendation of permit fees, seconded by Commissioner Nelson.

Commissioner McGrath clarified: And the Staff Recommendation is to deny the appeal. So an affirmative vote is to deny the appeal.

Mr. Zeppetello chimed in: And just to clarify the Staff Recommendation is to determine the appropriate fee and that the fee is \$232,623.00.

VOTE: The motion carried with a vote of 15-0-0 with Commissioners Addiego, Ahn, Gilmore, Finn, Gioia, Eckerle, Pemberton, McGrath, Nelson, Randolph, Showalter, El-Tawansy, Hillmer, Vice Chair Chappell and Chair Wasserman voting, "YES", no "NO" votes, and no "ABSTAIN" votes.

Chair Wasserman announced: The motion passes and the fee as recommended by staff is approved. We are going to skip Item 12 and move to Item 14 for a briefing on Highway 37.

10. Briefing on the Regional Shoreline Adaptation Strategy. Chair Wasserman announced: Item 10 is a briefing on the Regional Shoreline Adaptation Strategy Bay Adapt. Jessica Fain will make the presentation.

Planning Director Fain presented the following: Thank you, Chair Wasserman. I was actually going to turn it back to you Zack in that you have been a real leader in us launching this initiative. So before I launch into my presentation I will let you kick us off.

Chair Wasserman addressed attendees: Thank you. As we have talked to you previously we have been not only working on the Regional Shoreline Adaptation Strategy but also convening a group of stakeholders as an advisory group which is in the process of morphing into a more formal entity although it will probably continue to grow adding more stakeholders as we go.

The basic purpose of this briefing is to update you on the purpose, approach and status of what we are calling Bay Adapt Regional Shoreline Adaptation Strategy to obtain approval from the Commission to hire a facilitator for up to \$35,000. We have had two facilitated meetings and they have been significantly more productive because of that and seek Commission guidance and perspective on our overall approach particularly local government engagement and coordination with the legislative agenda where I'm going to tread very carefully.

The key points that we want to make to you is rising sea level is not a one-agency issue. BCDC is, pun intended, very immersed in this issue in terms of our activities and in terms of our stated and appropriate mission.

But this issue touches every jurisdiction that borders on the Bay and jurisdictions that do not because rising sea levels will have a much wider impact than simply the shoreline.

It is, in addition, a transportation issue, an infrastructure issue and a housing issue as well as a public-health issue. It also has major funding and financing components.

So this is and has to be a cooperative, collaborative effort amongst the region. We do think we have a legitimate leadership role but we want to be very clear that is leadership in this planning and figuring out how to finance and how to implement.

Starting last summer we've had three meetings of the Leadership Advisory Group. At that meeting last summer we heard – "Do something fast". There is a recognition this is a critical problem and the stakeholders do not want to see this pushed off into some long-range, planning effort.

We need to be as clear as possible on the problems that we are trying to solve and be wary of seeking legislation unless we have a clear goal.

The one meeting of this group that I did not succeed so well really fell down on that issue where there was a concern we were going to the Legislature.

Having said that we need to recognize the Legislature is clearly looking at this issue and looking at it seriously as is the Governor.

What you will hear today addresses all of these concerns. It is fast. We are proposing a six-month, intensive process. We think it is clear that we want the group to lay out the priority actions necessary to adapt the Bay to rising sea level that protects people and the natural and built environment.

Some things have changed at the legislative level. The LAO report which we've been briefed on and seen which ultimately is very helpful but is also a bit of a driving force and as people try to meet her suggestions and what happens there will be some friction and some concerns.

Both the proposals by the governor and the proposals by the Legislature have put urgency to this as well.

The last piece that I want to say is I've heard there are some concerns in terms of BCDC's leadership that we have been perceived as a regulatory agency and concerns about whether a regulatory agency actually lead this kind of planning effort?

The very simple answer to that is – yes. Our cities and our counties are regulatory agencies. And all of them are by mandate actively involved in the planning effort and often in the implementation effort.

This agency may not get as involved in implementation but I want to make very clear that this sort of vague idea out there that there is fear of BCDC because we are regulatory; just like a city, or a county – the obligation is to plan just as our obligation is to plan for how we adapt to rising sea level.

With that I will turn it over to Jessica to address some more of the details.

Ms. Fain continued: I'm pleased to share with you today our work so far on this effort which we now calling "Bay Adapt:" Regional Strategy for a Rising Bay. While I stand before you as a representative of BCDC, thus far Bay Adapt has been an extremely collaborative effort. And there are several folks in the audience and amongst you today who have been instrumental in getting us to where we are right now. We've already started this really strong partnership to move this work forward. I think that is going to be fundamental to its success.

I don't need to remind this group that sea level rise is maybe not such a "slow-moving disaster" that could become a massive disaster if we don't plan for the future.

It's also worth noting that while this is a California-wide issue it will be felt most acutely here in the Bay Area with two-thirds of the potentially \$150 billion in impacts occurring right here according to a recent U.S.G.S. study.

We also know that local adaptation is really at the core of Bay Area adaptation. By and large many of the actions that need to be happening are ones that local jurisdictions need to take, whether its changes in land use, reconstruction of roads and infrastructure or the building up of natural areas.

And this is actually happening by and large today throughout the region in many, many cases. It is not like we're sitting on our thumbs here.

But we also know that local-only adaptation will lead to sub-optimal local and regional outcomes.

And what those sub-optimal local and regional outcomes look like include:

- Under-resourced and lower-income communities having and continuing to suffer the greatest adverse impacts.
- Adaptation solutions from one community adversely affecting other communities in the Bay.
- Other challenges like housing and transportation taking precedent which we see. Yet, climate change will exacerbate all of those challenges.
- The 10-year window to accelerate, finance and implement wetlands restoration before climate impacts become more severe.
- Economic hardship to people and businesses and existing financial tools and resources that do not match the magnitude of the problem.
- Multi-jurisdiction, multi-benefit solutions that we all know are the best way to solve these types of problems but are often out of reach.
- A lack of regional shared goals or processes resulting from that and no way to measure our progress.

The good news is that the Bay Area is rich with a strong foundation for action. This is a snapshot of some of the different types of ways that we have this strong foundation in place. There could be hundreds of boxes that could fill this page. We know that:

- We have a large body of data, assessments and tools that have been created to support local adaptation efforts.
- A sense of urgency as we are hearing now in the Legislature and around the region that has led to many climate adaptation networking and planning initiatives.
- We have ART Bay Area which is about to be released in a few weeks which provides definitive answers about what gets wet, when and where, and what that means for regional systems like our highways.
- Likewise, Plan Bay Area 2050 the region's primary long-term blueprint is taking on the issue in a way that it hasn't before.

In short, we are not starting from scratch by a long shot.

There is still a long way to go. And despite this widespread agreement on the challenges there isn't yet widespread agreement on the solutions.

And so the purpose of this initiative is: over the next six months to develop and adopt a regional, consensus-driven strategy that lays out the actions necessary to adapt the Bay Area to rising sea level and protect people and the natural and built environment.

The intended outcomes of this are threefold:

a. The first is to develop guiding principles for rising sea level that clearly and concisely articulate the shared beliefs and values that should guide regional adaptation decisions. These will be our “compass” over the next six months. In your packets today you will see a draft version of these working, guiding principles that the Leadership Advisory Group has already had a chance to weigh in on and shape.

b. The second element is a joint platform of priority actions. These would be the 10 to 15 priority actions that the region must take together.

c. Most importantly is a commitment to act together to implement through our respective roles and authorities the actions that are agreed on. This would be the framework that we would be striving to achieve over the six-month process.

d. So, how do we get there?

We would start with a simple, shared vision: A Bay Area that is Resilient to Rising Sea Level. Those would be supported by a set Guiding Principles.

They include things like:

- Practice Inclusive, Collaborative Governance and Decision Making.
- Support Socially Vulnerable Communities.
- Solve Collaborative Problems Together.
- Don’t Hold Back Early Movers but Play the Long Game
- Go Green Where Appropriate.
- Pick the Right Strategy for the Right Place at the Right Time.

From these Guiding Principles would flow a series of regionally-prioritized actions that we need to take, and this process will reveal what those are.

Ultimately the hope is that these actions would then be combined into what we are calling a Joint Platform that can be endorsed and implemented region-wide.

So what is a Joint Platform? We see it as a set of policy actions or proposals for coordinated, Bay Area, sea-level-rise adaptation. It would be 10 or 15 clearly-written, concise two-pagers that describe the issue, the desired effect, the responsible agency, the timeframe and a summary and a more detailed description.

They would include short-term and long-term actions as well as long-hanging and more ambitious ones. And most importantly is that they would be co-owned, co-created and really multi-purposed in how we would use this Joint Platform.

The timeline for this is ambitious. We heard from our Leadership Advisory Group that no one was quite ready to engage in a longer-term, planning process that we might ultimately need to do. So we are trying to do this as strategically and tactically as we can.

We’ve spent the fall and early winter in this scope and organize phase where we’ve convened the Leadership Advisory Group a few times to flesh out this approach.

We've met with them once to discuss these Guiding Principles. So that is where we are right now.

Over the course of the spring and summer we are intending to clean up those Guiding Principles and then get into this Joint Platform development phase. And we will be fleshing out those action items with a series of working groups.

And then finally by the end of the summer our hope is to finalize and adopt with this group this platform.

Throughout this we are trying to be as expansive as possible in terms of trying to get that widespread buy-in and partnership that we know that we need. At the same time it is a six-month timeline which doesn't give us that much time.

And so we are carefully trying to craft a process that allows us to do both of these. So in addition to three to four additional Leadership Advisory Group meetings, smaller working groups that can help us work through the issues will be convened. We are also envisioning several public forums including a workshop right here in this building at one of our future, slotted times that would be co-hosted by several of the organizations involved with this work.

It is also important to remember that while this is going on there are still many other activities occurring simultaneously. It is our intention to align and leverage and not replace. And we have to keep going back to that idea and remembering that strong foundation that already exists.

This includes aligning this with Plan Bay Area. They are working through their blueprint phase right now. And then over the summer we will segue into the implementation, plan phase. And this work would feed nicely into that flow that is established.

On the outreach and engagement side we've already started to create this Leadership Advisory Group currently comprised of about 30 executive-level leaders from a range of stakeholder groups, agencies and local governments.

We also are also envisioning working groups and public workshops. We are working with partners such as BayCAN, the Bay Area Climate Adaptation Network and others.

ART Bay Area is soon to be released. We are planning a nine-county, road show to bring this out to folks and we see that as another opportunity to roll ART Bay Area into this next phase of work.

Here is a snapshot of the different entities that thus far have been participating in our Leadership Advisory Group and have been instrumental in bringing diverse perspectives and working collaboratively.

So at the end of this six-month process what I see this as is the first phase in this regional, adaptation process. BCDC and others have been thinking about this for a long time. So this is not a new issue but we think this strategic approach will get us to some of those shared answers so that we have a clear pathway for how to move forward.

Ultimately this will lead to a regional agreement that will let us adapt better and adapt faster. By "better" we mean we can reduce risk collectively. We can prioritize and act regionally. We can elevate all that great work that is going on and needing to go on at the local, adaptation level. It will allow us to adapt faster, unlocking and aligning funding and financing, fast-tracking implementation and removing barriers.

As set up BCDC's role is to lead a dialogue and not dictate the final word.

I have a few questions for Commission discussion but before I launch into this I would like to invite up several of the partner organizations who have helped us thus far.

We have Warner Chabot from S.F.E.I. Do you want to come up and say a few words?

Mr. Chabot addressed the Commission: I am the Executive Director of the San Francisco Estuary Institute. I want to make two points to the Commission.

One is on BCDC's collaborative leadership on adaptation planning and two on the essential need for state support for local, planning capacity.

You Commissioners probably more than anybody else in the Bay Area understand that our climate-change challenge requires collaboration among the nine counties, eight million people that have to work together to deal with a regional issue but land-use planning occurs at the local, government level.

We are facing a triple whammy of sea level rise, groundwater rise and lowland flooding. That issue is regional and yet the reality is 90 percent of the adaptation actions, the land-use planning, the infrastructure, financing and work occur at the local, government level.

So the real challenge that BCDC faces in this collaborative effort faces is: how do you get nine counties, a 100 plus jurisdictions to work collaboratively to deal with a regional challenge? And where are we going to come up with the governance solutions and the financing solutions to rebuild almost the entire, shoreline infrastructure over the next 20 or 30 years so we have a viable Bay Area for our grandchildren a hundred years from now?

So effective collaboration across agencies is essential. Your staff under Chair Wasserman, Executive Director Goldzband and Planner Jessica Fain have done a superb and excellent job with the unenviable task of herding wet cats in the Bay Area. We have now a 27-member Advisory Committee comprised of business, local government, civic, NGO leaders – I think your staff has done an excellent job of designing and implementing a process that seeks to incorporate these very diverse and passionate interests.

I believe they have done an admirable job of trying to get us to work together and create a process that at the end of six months hopefully will result in a framework that will enable us to work even better over the next one to two years to do a more detailed plan.

On the second point I want to link my praise to BCDC's good process with a request for you as individual policy leaders to urge our state leaders, our 27-member, Bay Area Caucus to meet two essential and currently-unfunded needs that will be essential for an effective and successful Bay Area Shoreline Adaption Strategy.

One is that local governments and communities must have the capacity to do the essential, multi-agency, multi-jurisdiction collaboration that is going to be needed.

Two, the Bay Area's frontline players and it is the local governments and those communities who are going to be the frontline players doing the local land-use planning in collaboration with their neighbors to produce a regional plan. They need technical support to be able to address these complex issues.

I will conclude by saying the following – I think this issue of local government capacity has begun to get the attention of the governor and the legislative leaders, but the magnitude of the challenge is huge. We are talking about \$150 billion of shoreline assets at risk in the Bay Area that we are going to have to tackle this triple, whammy challenge.

So it is imperative that our 17-member, Bay Area Caucus assert really bold leadership to meet those capacity and technical-support needs of local communities and local governments.

To help achieve this I sent out an email this morning to 1400 local, elected officials and community, climate leaders around the Bay Area. That email included links to a variety of documents that demonstrated the leadership that the Administration is providing, the Legislature is providing and also listed some of the bills that are currently in the hopper.

I also included a single-draft letter to go to our Bay Area Caucus to urge them to use the Legislative Analyst Report as a framework for legislation that would provide support to local governments.

As you well know that LAO Report provided about six or seven specific suggestions and about a \$100 million program to specifically fund local governments and communities to do the essential work.

So I am aware that BCDC as a Commission you are part of the Administration and you as a Commission cannot be lobbying the Administration or the Legislature but I appeal to you as individual leaders you represent the variety and range of stakeholders around the Bay Area whose voice will be listened to by Assemblyman Mullin and Bay Area Caucus Chair Ting and Assemblyman Quirk and others who are currently thinking about this legislation.

So I urge you individually to think about other groups who could be sending communications at this very, very critical time to the Bay Area Caucus to get them to think about specific, detailed legislation.

Lastly, I would say one bill that has been submitted by Assemblyman Atkins is probably the most comprehensive bill currently at play. I think over the next 30 to 60 days Assemblyman Mullin who has the kind of sea-level-rise portfolio among the Bay Area Caucus will be hard at work drafting a bill. So there is a very narrow window of opportunity to get in on the ground floor to help think about what type of legislation will most significantly help provide the essential capacity-building and technical support that local governments need.

And I appeal to take leadership on that because I think it is a very critical opportunity. And with that I think the Bay Area has the enormous possibility of actually being a national model of how an urban region of eight million people at the edge of the sea tackles climate adaptation. Thank you.

Commissioner Gioia chimed in: Warner I want to ask you a question and I respect your opinion. You've been around for a long time. You've looked at this issue.

How would you look at the issue of who eventually enforces, implements, ensures that the planning that comes out of this process happens?

Many of us here sit on local boards of supervisors or city councils that control land use. So the land-use, decision making other than the shoreline band is made by local governments which is why this agency was formed back in the 60s because local governments were doing bad things by filling the Bay and that stopped with BCDC.

So how do we stop if we can do all this great planning and you are assuming then that all the cities and counties are going to buy in and act accordingly? And I've been around local government long enough to know that that is not going to happen. (Laughter) Right – 30 years.

So what would you suggest as to how the discussion we often have is – should some regional agency like BCDC or whoever has some regional authority instead of about filling the Bay, stopping the filling of the Bay is having land-use decisions incorporate resiliency so that the neighboring city isn't affected when one city does the wrong thing?

Mr. Chabot responded: I look at this as a political strategist than a planner. And I recognize the reality is that politically the tendency of wanting to keep local control is an enormously powerful force. It is not going to change overnight.

I think the worst thing you could do would be to come out of the chute and start talking about changes in governance because that is going to send everybody into their corners fighting each other. I think the real challenge in the Bay Area is not ecological or engineering – it's governance and finance.

Commissioner Gioia stated: I agree.

Mr. Chabot continued: Climate change is moving so fast that we are going to have to evolve both our governance and finance. I would just argue that we probably have more intellectual capacity and good thinking in the Bay Area than anywhere else on the planet maybe outside of Tel Aviv, Manhattan and Singapore. We have really smart people thinking about this and tremendous resources.

Commissioner Gioia interjected: They are thinking about solutions but who is thinking about the governance of translating that?

Mr. Chabot explained: Let me get to that. The governance solution will evolve by representatives of the nine counties and 100 cities sitting in a room, talking with each other about what the planning solution is –

Commissioner Gioia again interjected: Just like it has for housing and transportation issues? (Laughter)

Mr. Chabot replied: It has but these are very real problems. I am not saying it is easy but one of the problems is that the local governments, the folks that are on the frontline don't have the capacity to do the dialogue.

And the good thing that has happened in the Bay Area in the last two years is that there has been an explosion of networks, informal networks, created. This BayCAN kind of the policy wonks and planners getting together because they want to do networking and collaboration. CHARG, the public works leaders and flood control officers creating their own network to get together. A third group that has been created because it's a group of women that think the other are too testosterone-based and they want women planners to get together.

So there are three, different groups that have formed just to do the type of networking collaboration and I feel by that looking at setting priorities, we've done this.

Let me give you a good example. Wetlands – the Coastal Conservancy did a process. S.F.E.I. was involved in it back in 1999, updated in 2015 that looked at Bay planning goals. That process led to the creation of the Bay Restoration Authority; led to the creation of a new form of Bay Area-wide governance and a form of financing the first multi-agency, multi-county, tax measure specifically for climate adaptation.

Commissioner Gioia added: I know I am on the Authority but that agency doesn't force a project. It just –

Chair Wasserman intervened: I am going to interrupt this discussion for the moment –

Commissioner Gioia continued: No, no this is a good discussion Warner. This is –

Chair Wasserman continued: - we will, we will continue it. Next speaker. (Laughter)

Ms. Fain stated: And quite frankly we are hoping to answer these questions through this process. By the end of the six months I hope we can have this conversation and have a much better answer.

Commissioner Gioia noted: It is different having regional government just giving you money versus regional government telling you what to do. The Restoration Authority gives you money to build a project whereas what we are trying to get is getting folks to do something they may not otherwise do.

We want the smart minds to figure this out. I am not just so sure it is going to happen quickly.

Ms. Fain continued: I'd also like to invite up Adrian Covert from the Bay Area Council who has been another great partner so far to say a few words.

Mr. Covert addressed the Commission: Thank you Jessica. Thank you Chair Wasserman. The Bay Area Council has been privileged to be a part of this process from the beginning. It is very clear from our own work on the subject that sea level rise does require a regional response primarily because action in one area of the Bay can precipitate a reaction in another part of the Bay.

And a regional strategy therefore is going to be needed to defend the region's residents, businesses and infrastructure from rising sea levels and flooding that comes from precipitation events in the future. So that is why we are excited about being a part of this working group.

And also a regional forum is needed to bring together voices from different perspectives. Since nobody knows what the right answer is, as we saw a brief taste of in the previous conversation with John and Warner, this is something that – I think that conversation highlights why we need the six-month process and why we've come together.

And I think that staff should be commended for putting together a structure and a really smart flow for the right people to come together over the next half year to figure out what the answer to some of those questions is. And if we knew what the answers were we wouldn't need it.

I am excited to be a part of it. I thank BCDC and I am looking forward to revealing the results in six-months time and hoping to implement them with some of you in the future.

And lastly – I wasn't going to mention housing or transportation (Laughter) but had we had something like this for housing and transportation 40 years ago we might not be in the same position that we are in now.

So we waited too long and the conversation therefore got more difficult, resolution got more difficult on those problems because we didn't come to resolution earlier.

So I think this is a smart thing to do and I am looking forward to working it with you and your staff.

Ms. Fain continued: Thank you Adrian. So before we actually do have an action item to follow this but we would love to open it up to Commission discussion.

There are three questions here. Do you have specific feedback on this approach? How can we best engage with and incorporate perspectives of local jurisdictions? And just more general thoughts on how we set this work up for success but really leave it up to you to provide any comments.

Commissioner McGrath commented: I think Jessica and her crew has done a really good job and actually has the bandwidth. I have tried to get the city of Berkeley engaged in this. I think they have some of the same problems that others do. It is not immediate enough and they just can't focus on it. But I think the way that you've been gentling around is the right way.

Commissioner Gioia chimed in: I think this is a good approach. I just want to make sure I understand the specific deliverable about where we go on an implementation side.

What can we expect other than everyone coming together which we do on so many things and we come up with so many great idea and this is going to be good but a recommendation for a structure for implementation. I will put it that way.

Ms. Fain explained: it is hard because on the one hand we are trying to be really open. We are not trying to say and the end of this – this is going the answers. So we are trying to set up a process where we can have these conversations and we will shape the conversations around some of these key issue areas.

And then we want these specific proposals to come out of it. And we will seek the leadership group to advise us. Represented on that group are folks from the Metropolitan Transportation Commission, BARC, Caltrans as well as various thought leaders. So we are really going to be looking to that group to help us think through how to implement it.

And it may be legislative recommendations. It may be –

Commissioner Gioia interjected: Yes, so you are going to address that.

Ms. Fain continued: - it may be technical recommendations. It may be policy recommendations. I really see it as a suite of actions that we are going to see.

Commissioner Gioia added: I just think that is really important. We can come up with the best suggestions for policy; the question is, how is that policy going to get implemented? Local land use is still in cities and counties and trying to get 100 cities and nine counties to all the right thing at the same time – we unfortunately have not had a history of that. That is why

three, strong, environmental women in the 1960s helped form Save the Bay and got the Legislature and the governor to pass the law that said; cities and counties you can't fill the Bay anymore without getting a permit from BCDC.

That changed the dynamics. Sometimes I just think bold action about how you implement is really necessary. So maybe this group thinks about what the bold action that can translate good policies into the implementation can be done.

Commissioner Showalter commented: I was really glad to see that slide that showed all those other organizations that have been working on this. I worked with CHARG some five or six years ago when I worked for the Santa Clara Water District and I was really impressed by the goal of it.

It kind of fell apart and I understand it has been put back together and that is great.

But there are a lot of technical issues with – what happens if you build a flood wall in the south county? What does that do to water-surface elevations in Marin? I mean we need to model that. And certainly separate jurisdictions aren't necessarily going to have the wherewithal or money to do that.

So I was really pleased to see that. And the other thing I am concerned about is – to me when I read this and have heard about; this sounds a lot like CASA which happened last year or the year before. Theoretically it was such a wonderful thing but the roll-out of it created an immense amount of hard feelings.

So I think what Adrian said about this may be a better time in the process is true. We are much earlier in the process than the housing crisis but I am concerned with how this gets rolled out. I know you're concerned with it too but a lot of thought needs to be put into how that happens so that we don't have a tsunami of people wanting to fight against it.

The other thing I want to say is – okay, we have 100 cities in the nine-county, Bay Area. They are not all shoreline cities. For instance, in Santa Clara County we only have five. And I am sure that is analogous in the other counties too. I am not saying this is easy but let's not scare each other with the 100 cities we have to work with.

I think we need to come up with what is the real number? I think it is probably closer to 30 which is bad enough. (Laughter) That should be something we think about. And thank you. I can't wait to follow this.

Commissioner Nelson commented: I have three general comments. First is that I am really pleased to see the broad approach to engagement and the fact that BCDC is clearly stating that we're intending to serve as a modest facilitator and not an agency controlling this process.

Second, I think it is important that we go in with realistic expectations about what is going to come out given the time period, given that we are talking about 10 to 15 issues each one addressed with roughly two pages each. That means that this necessarily becomes a framework for the next set of actions that is going to be a plan for a plan or a plan for a series of plans more likely. That is okay. It is just important that we go in with those expectations so when we come out with that people aren't disappointed.

And the third was I was really pleased to see the timeline and the effort to try to move this forward expeditiously.

Commissioner Beach commented: Thanks for the presentation and I think it is a really ambitious effort. I understand the focus here is local, however, I am wondering what you see as a potential role for federal agencies. For example, in some of your working groups provide input or largely just through the public process?

Ms. Fain replied: Thank you for raising that question. Thus far we have not engaged with federal agencies. I think that is a blind spot. And so I would love to think more about that and the Army Corps in particular as a key player in that.

Commissioner Beach continued: Great – I see FEMA and DOT as well as larger players.

Commissioner Randolph was recognized: I would note that it has probably taken us seven or eight years to get to this point. I think it is good that we have been judicious about the approach and we need to be thoughtful about the roll-out.

But I think we should feel a bit of a fire under our feet here. Time is passing, water levels are rising and it is not getting any easier. So I was happy to see the six-month timeframe for a deliverable and then let's really think carefully about the roll-out.

Commissioner Eckerle commented: Thank you so much. This is exciting. I'd like to think about what types of lessons we might see at the end of these six months that could be applied to the coast because we are still thinking about trying to figure out how we do regional planning.

Obviously the issues are different and the jurisdictions are different and it has a suite of things that are parallel but not consistent.

If there are any lessons learned as you move through this process that we can integrate as we are thinking more broadly not just about the Bay but as building climate resilience across the whole coast. That would be great.

Chair Wasserman commented: In looking thanks to the Acting Executive Director at the BCDC website I believe that there are 54 jurisdictions, cities and counties that touch the Bay.

CASA is a very important lesson; no question about it. I think there are a number of very significant differences between what we have been doing and what CASA did.

One, our process from the beginning has been much more transparent than theirs. We have had this ongoing series of Commissioner working groups which have been public, workshops which have been very public on the various aspects of this and in now trying to pull this together in a much more coherent and focused way we are also doing it in a very public way and reaching out to a wide array of stakeholders.

One of the critical elements that we do not have in place yet but I'm going to try very hard over the next two to three weeks to truly get moving; is indeed some group of representatives of those 54 local jurisdictions – I'm not going to pull together a meeting of all 54 of them – but perhaps looking at what ABAG did in terms of the local input to CASA which came very late in the process to put that together and Supervisor Dave Pine and I have been having some discussions about this. Any suggestions or recommendations would be appreciated.

I think it is also very important to recognize that at the end of March we do expect that BCDC and Caltrans and MTC will release the Adapting to Rising Tides Report which will have a not-totally-comprehensive because there are some gaps in it but a very thorough analysis of specific vulnerabilities which can then start to be much more easily tied to specific solutions.

We recognize that unfortunately we do not today or in the immediate, foreseeable future have that source of funding equivalent to Measure AA or equivalent to the source of funding that MTC has in the transportation model because much of this is modeled on the Regional Transportation Plan process and some of its elements.

So we are taking in those lessons. We are making it much more public. Yes – six months is a very aggressive goal but we think we need that level of aggressiveness and we think we have the capacity to do it. And a number of our partner agencies have committed to assisting us with that. So it is not all on BCDC staff.

I believe that we can do this and when I say “this” it is not going to be the end solution but it is going to be a much more clear and comprehensive outline and specific steps that we need to take to accomplish this.

And I don’t know that it will have the perfect governance solution that at the end of this six-month process but I think we will have a lot of the elements of it and a path forward to figure out how to do it.

Commissioner Gioia asked: So are you coming back with maybe recommendations about how these steps or strategies can be implemented?

Ms. Fain answered: Yes.

Commissioner Gioia continued: And maybe identify who has authority over them. Let me make an analogy – an Air District analogy. Communities around the state including in West Oakland and Richmond among 12 around the state are developing community-led, emission-reduction plans. They are not additional authority but they are a plan and then in them they identify which agency is responsible for implementing that strategy.

And so if you take a look at the West Oakland Plan it’ll say, this is the city of Oakland land use, this is the Air District, this is the Health Department, this is the Port of Oakland – it would be useful to identify which agency or entity is responsible for implementing or achieving a particular strategy because then we will get an understanding; well maybe their authority is mandatory, maybe it is discretionary or it is advisory so it is important to identify not just the strategies but who is responsible for them.

Is that going to be done?

Ms. Fain replied: Yes.

Chair Wasserman reiterated: Yes. Any other comments? (No other comments were voiced) Unless you have other comments Jessica we do have a matter to approve the contract for the facilitator that is before us. Do you wish to make any comments on that?

Ms. Fain stated: I would like to just introduce it.

11. Commission Consideration of a Contract for Facilitation Services in Support of the Regional Shoreline Adaptation Strategy. Planning Director Fain stated: As you know this is going to be an ambitious effort and therefore we wish to enter into a contract with the Consensus Building Institute for facilitation and process support services. Founded in 1993, Consensus Building Institute is a nationally and internationally recognized nonprofit organization that provides strategic planning, organizational development and facilitation services for public agencies, nonprofits and international development agencies around the world. As CBI's West Coast Director, Senior Mediator Gina Bartlett has over twenty years of experience as a mediator and facilitator in consensus building and collaborative planning on policy issues over a broad range of issues.

The staff recommends that the Commission approve a contract with the Consensus Building Institute (CBI) for \$30,580.00 beginning in Fiscal Year 2019-2020 for facilitation and process support services related to the development of a Regional Shoreline Adaptation Strategy. The staff also recommends that the Commission authorize the Executive Director to amend the contract as necessary, including revising the amount or duration of the agreement so long as the amendment does not involve substantial changes to the scope of work or exceed \$35,000.00.

MOTION: Commissioner McGrath moved approval of the Staff Recommendation, seconded by Commissioner Gilmore.

Chair Wasserman asked: Any comments on the motion? (No comments were voiced) I need a roll-call vote on this. Peggy please take the roll.

VOTE: The motion carried with a vote of 14-0-1 with Commissioners Addiego, Ahn, Gilmore, Finn, Gioia, Eckerle, Pemberton, McGrath, Nelson, Randolph, Showalter, Hillmer, Vice Chair Chappell and Chair Wasserman voting, "YES", no "NO" votes, and Commissioner Beach voting "ABSTAIN."

Chair Wasserman stated: I gather we can return to Item 9.

Ms. Coates-Maloon replied: That is correct. (Commissioners returned to discussion of Item 9)

12. Briefing and Potential Vote on Pending Legislation. Item 12 is a staff briefing on legislation. Chief Deputy Director Steve Goldbeck will make the presentation.

13. Consideration of 2019 Annual Report. Item 13 was postponed until the next meeting.

14. Briefing on State Route 37. Chair Wasserman stated: Item 14 is a briefing on Highway 37. Jessica Fain will present the Staff Report. Planning Director Fain presented the speakers for this item: Thank you Chair Wasserman. I am pleased to introduce Item 14 related to the briefing of State Route 37. And here to present on this topic today is Melanie Brent from Caltrans District 4 as Deputy District Director of Environmental Planning and Engineering and Suzanne Smith Executive Director for the Sonoma County Transportation Authority. We will also be hearing a brief presentation on the SB 1 funded, Public Access Study for the same area and Erik Prince from Atlas Labs will be presenting that. Thank you.

Ms. Melanie Brent addressed the Commission: I am Melanie Brent and I am the Caltrans Deputy District Director for Environmental Planning and Engineering. Today we would like to present to you the State Route 37 resilient planning efforts that are underway.

This is a collaborative effort between Caltrans, MTC and the four North Bay County Transportation Authorities. To make the presentation I would like to introduce Suzanne Smith who is the Executive Director for the Sonoma County Transportation Authority.

Ms. Smith presented the following: Good afternoon I appreciate the opportunity to be here today and share with you the exciting work underway on the Resilient State Route 37 Project. For more than five years now the four North Bay counties, Caltrans, MTC and many, many stakeholders have engaged in numerous studies, analysis, technical discussions and public meetings about the wide array of needs and issues and also opportunities along the Corridor.

All of this before initiating the formal CEQA, NEPA process that will also provide important analysis and opportunity for public engagement.

We seek to integrate transportation, ecology and resiliency to sea level rise into the Corridor and are focused on five key areas.

They are transportation, sea level rise, ecology, equity and public access.

As Melanie mentioned this is a multi-county project. I will start with the “what” of the project and then talk a little bit about the “how” that we hope to proceed.

The four North Bay Counties created a Policy Committee in 2015 to bring together local leaders and initiate discussions on the needs of the Corridor. Over time Caltrans and MTC were added to the Policy Committee and a formal MOU was adopted identifying roles and responsibilities.

This venue provides for a regional collaboration in a public setting.

I will start with some of the transportation basics. The State Route 37 Corridor is 21 miles long. For planning purposes we have divided into three segments based on the number of lanes.

Segment A as you will see on the map is two lanes in each direction. Segment B is one lane in each direction and Segment C is two lanes in each direction.

It is a critical east/west route for the movement of people and goods plus it is considered a recovery route as part of the California Lifeline Route System between U.S. 101 and Interstate 80.

You can see on the insert here that there are no good alternative routes to State Route 37. In the north you have Highway 12 to Highway 116. That is 44 miles of mostly rural, one-lane-in-each-direction roadway with lots of access points and is already fairly congested.

To the south you got the Richmond/San Raphael Bridge to 580. That is 43 miles and requires a toll and also there is a little bit of congestion there as well. So no real good alternatives; it is a critical, critical corridor.

There are two primary issues with State Route 37 from a transportation perspective. There is congestion and also the risk to the Corridor from sea level rise.

On the congestion front we performed, Caltrans did this work in conjunction with the Policy Committee. We performed a floating-car survey a couple of years ago assess the traffic congestion. And what we knew to be bad was quantified as truly terrible.

There are about 40,000 trips a day on this Corridor. It is very commute-oriented meaning that the westbound trips happen in the morning and the east-bound trips happen in the afternoon. And what should normally take 20 to 25 minutes now takes more than 50 minutes in the morning and over 100 minutes in the late afternoon and evening for people to go home to Solano County every day.

In addition to the direct congestion that we see on Highway 37 there is a spillover impact where cars divert to Lakeville Highway you see on this map or Highway 121 or Mare Island and the impacts to those local roads and neighborhoods in those areas is significant as well.

I will move on to the sea level rise side of the problem. Here we anticipate as the map shows regular inundation and significant impacts by 2050 if not sooner. You see the inundation patterns here on the map.

We also have Jeremy Lowe who is with the San Francisco Estuary Institute (SFEI) doing an enactment for us. He is a coastal geomorphologist but he is showing what sea level rise will look like if you stand in the same spot over the next 100 years. It is not great.

And along with the impact of future sea level rise we have flooding right now. A year ago this is what things looked like out on Highway 37 and that was the second, major closure. We also had one in 2017 where the roadway was closed for nearly a month.

The causes of the flooding are linked to the low-lying nature of the Corridor itself coupled with storms, King Tides, storm surges and old or insufficient levees that have very complex ownership issues.

As we look at the Corridor and the surrounding habitat we see significant opportunities to restore and enhance wetlands and Baylands that will improve habitat for numerous species, restore historic tidal action and help mitigate impacts from sea level rise.

We will strive to integrate the 37 Corridor Project not just mitigate for the transportation aspects.

To that end the staff team has convened resource agencies, non-profit organizations and other experts to explore how to best approach a very unique project. Topics like advanced mitigation, partnering on restoration efforts, aligning public access with transportation corridor improvements and sea level rise are all on the table and need a cooperative, multi-disciplinary, team approach.

Speaking of public access; both to natural resources and bike and pedestrian access paralleling 37 for transportation purposes are all part of our planning effort that is underway now.

The Policy Committee initiated these discussions. The SCTA the agency I work for works very closely with Sonoma Land Trust and Sonoma County Regional Parks on a number of projects out in this area. And it is exciting to think about the potential for implementing these elements in parallel or even in advance of some of the larger infrastructure projects.

The last pillar I mentioned was equity. The goal of enhancing the quality of life for residents and building a stronger local and regional economy is also being worked on. Because we are talking about tolling on State Route 37 we are also looking at what avenues we should explore to improve equity and address alternatives. So we are looking at means-based tolling.

And we've conducted the preliminary studies for bus transit. There is no current bus transit on this Corridor. We are looking at water transit and a smart feasibility study meaning a rail feasibility study. You can see there is a railroad track that goes parallel in Segment A and then goes a bit north and then comes back down into Napa and into Solano on the easterly side.

Given all the opportunity to do the right thing in the 37 Corridor and make it work for transportation and ecological purposes means we really must break the typical, transportation-project, delivery paradigm. The 10-year-plus, typical delivery for transportation improvements will not work. We've already started conversations about taking a different approach to this Corridor. We've done a lot of outreach and analysis before even starting the formal CEQA and NEPA process. But we need to move with all the participating parties engaging and guiding the progress.

There is a model in San Diego – the I5 North County Corridor Project that can help us. They've had some success there. But this area of the Bay and this highway Corridor are pretty unique and truly require a team approach.

I would like to touch briefly on how we seek to improve the transportation Corridor and implement ecological and sea level rise components. From the infrastructure side we are thinking in terms of a two-step approach – an interim project and an ultimate project.

The ultimate project will address sea level rise and operational improvements we need to save this critical route. A combination of elevated berms and causeways will likely be required across the entire Corridor. New or upgrades levees may also play a role.

And there is still so much work to be done to determine the best approach for the ultimate project. But we have performed some high-level analysis looking at possible alternatives that will help inform the scoping of the environmental process.

I wanted to highlight that there has been some consideration for different alignments for State Route 37. And while that could potentially have some added benefit to the Baylands in the immediate area, the impacts to resources in other areas suggests these options are pretty challenging compared to maintaining the existing alignment.

Some of the work that has happened out in the Corridor now as part of the interim project is some flood protection work that Caltrans has been able to conduct over the last couple of years. This is important to protect the westerly side where we have seen the bulk of the closures.

Segment B the middle section where there is the congestion relief needed; MTC, Caltrans and the North Bay partners are working on the Interim, Congestion-Relief Project that would add a new lane in each direction at the current grade or possibly add a single lane that would be managed with a movable barrier similar to the Golden Gate Bridge.

Neither option will preclude any ultimate project nor is it throwaway work as the value of the project to the travelling public and the term it will be in place prior to the ultimate project being constructed is significant.

So we are working very closely with Caltrans who is the owner/operator and with MTC on getting that project into the CEQA process.

As we assess how best to address the infrastructure piece we are also very focused on integrating the design to restore hydrology and ecology. We are excited about the ability to enhance wetlands, improve shoreline and overall, restoration efforts on key parcels throughout the whole Corridor and pretty far north as well.

I understand the Commission has recently adopted a Fill-for-Habitat Bay Plan Amendment and our team is interested in continuing this discussion given the unique opportunities that we may have on Route 37.

I mentioned earlier the idea of using some embankment and bridge depending on the location and environmental benefits involved. This slide shows where existing intersections are and where bridges are located. At the bottom there are some of the cross-sections on what we would be looking at when we build the ultimate project.

I would also note that we are very keen on having the transportation alternatives with rail and bus service corridor-wide.

In closing I wanted to show this graphic that tries to depict a lot of things all at once. Along the bottom you see a timeline starting today going out through 2050 and you see the water rising. And this is the walk-and-chew-gum part of the presentation. This is where we really need to deliver on early benefits while we are also started work and getting ready to deliver on the ultimate project.

And that means a lot of complex, moving parts and the need to break the traditional, project, delivery paradigm. So the early piece of it is flood protection, congestion relief, early ecological enhancements and transit.

As we are doing that and completing those phases we will also be doing the environmental and project development work for the ultimate project, more robust, advanced mitigation, working on the bike/pedestrian and public access and then increasing the transit elements as well. And that carries us through a 2030, 2040 timeframe.

This is a very expensive project. It is a challenging Corridor but we are excited about the team. I am honored to be representing them today because it is an august group. It is a true partnership between the four counties, Caltrans and MTC.

The voters supported some funding and Regional Measure 3 for this. So we are eager for that issue to be resolved in the near future where we can access those funds.

But there is a lot of work to be done and I appreciate the opportunity to share it with you today. I'd be happy to answer any questions and there is a team of experts behind me as well if I am not able to answer them directly.

Chair Wasserman continued: Thank you. Questions?

Commissioner Randolph commented: I was glad to see you mentioning that you would be thinking about alternative, procurement paradigms. I am aware that there have been a lot of different proposals about how a new Highway 37 could be financed and managed. And so there is a big issue with the procurement today in how long it takes and the main issues associated with a lot public projects. So thank you for being creative in your financing options.

I was also happy to see that you are planning one way or the other to address that middle, segment bottleneck. I've been on Highway 37 a lot of times. Fortunately I always against the traffic flow knowing the time of day that it is there. And it does seem it would be an

omission if in the ultimate project that includes all the ecological planning that somehow that middle-stretch bottleneck wasn't addressed. So it was reassuring to see that it is part of your plan.

Commissioner McGrath was recognized: I have a question and a couple of comments. First of all you have a lot to learn about "old". (Laughter) The one question that I have for you has to do with traffic along the East/West Corridor. Have you modelled the impact if this is expanded to two lanes each way or even three lanes each way what kind of relief you might get on the Richmond/San Raphael Bridge?

Ms. Smith replied: We have not done the traffic analysis yet but that definitely will be part of the CEQA process. It is a really interesting question because the impacts to Richmond/San Raphael as well as the more rural roadways in Sonoma and Napa will see a significant benefit.

My recent history is with improvements to Highway 101. And we've seen a significant benefit to the parallel routes that run through small towns like Penn Grove where they had significant traffic issues and wanted major infrastructure improvements in their small town but once the Highway was fixed the users went there and the impacts to the small communities was significantly reduced.

Commissioner McGrath continued: So I have been following this for a while and I've been getting the meeting minutes from the Coastal Conservancy. In fact, my motivation in working on the changes to the Bay Plan Amendments had to do with Sonoma Creek.

As you probably know you've got all those accreted wetlands out there but they don't contribute tidal prism to the Sonoma Creek System. So they actually hinder flood control rather than benefit it. But if you re-engineer the hydrology you might get substantial, flood-control benefits not just locally but up that valley which is better ecology, better flood control, let's go there.

I want you to think big. I want you to think if six lanes make sense - why not do it?

And the other thing I want you to think about is more causeway rather than berm because your advanced, mitigation idea is wonderful and I think will be monetized more and more as time goes on. Whether it goes just to Caltrans and MTC, whether it goes to other local governments to provide political support; I think those are great ideas and it was a great briefing, very well done – thank you.

Ms. Smith responded: Thank you. I did not anticipate a presentation in BCDC resulting in "Add another lane" (Laughter) but thank you. That's good to know. I will take that back.

Chair Wasserman stated: Just to be clear – it is not a Commission position. (Laughter)

Ms. Smith continued: To your point about Sonoma Creek our team just had a very exciting meeting with the Sonoma Land Trust. They are doing a ton of work on Sonoma Creek about that tidal prism and some scenarios that they are developing that would be part of a project that would come out of the 37 Corridor as well or that we would work with them on. And it is exciting. There is huge opportunity in the areas north of Skaggs and north of Cullinan and going all the way up Sonoma Creek.

Commissioner McGrath added: EPA helped fund that effort and there was strong encouragement from our agency the Regional Board. So think big.

Commissioner Nelson commented: I just want to thank you for coming to us with a briefing on a project that sounds like a pretty, straight-forward, transportation challenge and talking about how that is complicated and enhanced by addressing self-consciously and up-front multiple objectives. That is exactly the sort of thinking that we are going to have to do with a whole host of adaptation challenges around the Bay Area. So thank you for that.

Chair Wasserman stated: Seeing no other comments or questions – thank you very much for the presentation and the hard work on what is by no means a simple project.

Ms. Smith replied: Thank you Mr. Chair and Commissioners. And I want to thank your staff as well for all their work that do on this project with us.

Chair Wasserman acknowledged: Thank you.

Ms. Smith announced: This is a two-part presentation. The second part of this presentation about the Public-Access Study that has been going on concurrently with this through an SB1-funded grant that has been managed through BARC and Eric Prince is going to be presenting this aspect.

Mr. Prince addressed the Commission: I am here on behalf of Allison Brooks and the Bay Area Regional Collaborative. I was on a team that worked on the Resilient by Design Bay Area Challenge. We had a team we called “Common Ground” that looked at the State Route 37 Corridor and San Pablo Bay at large. And then in 2017 on behalf of MTC was submitted a Caltrans SB1 Planning and Adaptation Grant of which we received and we have been working on this project that took a portion of what we looked at in that competition and focused on public access in this region.

So we have been working on this for about a year. The central tenant of us looking at public access; we are not just looking at public access but actually to find a way in the near-term to create some more urgency and awareness of sea level rise and accelerate some implementation strategies in that near-term.

And that being that one of the ways that we can do that in advance of some of the highway work is actually looking at public access as being the opportunity to create awareness and identify associated with this; awareness of the relationship of ecology to transportation.

As part of our team we have Exploratorium on our work. And so public education and access became really important. But there are some real objectives that we are looking at in a very large scale here through this.

The project objectives are shown on the left where we will be developing a way that public access can set the balance of protection of the habitat in this region. We are looking to try to find a way that can complete a continuous, Bay-Trail alignment from Novato to Vallejo.

We are looking at opportunities for the Water Trail also. We are looking to increase awareness and environmental education regarding the Baylands. And most importantly we are trying to create a regional strategy which we can find some tangible, near-term projects that we feel are more of a priority that we can develop in the near-term that are working in coordination with the long-term goals of the projects.

We've been doing a pretty robust outreach. We have had three, local, working-group meetings. We attended a Skaggs Island bike tour. Brad was on a panel that we hosted at the Exploratorium called "People on the Baylands". And we have even had some meetings with folks at BCDC and MTC.

And we are right at the end where we are starting to complete a draft report and start to present this to various counties within the four counties to those supervisors.

On the left is our local, working group. A lot of bicycle-access advocates, local representatives from Vallejo, landowners and restoration folks who have been working in this area for a long time are part of this group.

On the right you see the summary of some of these initial findings. While all people support public access within this four-county region that form of what we call public access is not understood as equal. Are we talking about a trail on a levee that is gravel? Or are we talking about an asphalt trail? Are we talking about access for hunters? Are we talking about Water Trail access? So there is a lot of nuance that became important that we needed to unpack.

There remains some disagreement among stakeholders about what access is compatible and appropriate in these areas associated with these more wildlife-focused, habitat goals within the region.

This actually starts to bring out some larger, regional, policy issues and discussions. A lot of that is tied to – are we required to maintain these trails in perpetuity for the next 100 years? Or is there a way to imbed from the landowner's perspective a degree of adaptability in the next 50 years so that we are maintaining a trail in the near-term but we are not held to maintaining that trail for the next 100 years because this area is very much at risk by sea level rise in the near-term.

But also there are a lot of limitations on maintenance. Between the state and federal landowners that own these lands they don't have the resources to maintain trails. So even if we are adding new connections; who are maintaining these trails? There are a lot of concerns just about maintaining levees in the region.

We have developed a set of existing-conditions analysis about where all the existing plans in place for existing trails in this very broad region. We have started to understand what are some additional opportunities of access. And then we developed a set of guiding principles that start to weigh these various alternatives to connect Bay Trail and access throughout this broader region.

One of them being what we call "Resilient Connectivity" that how does a trail head start to connect multiple points of access versus the relationship to that link being that there might be some segments of trail that will be lost to sea level rise. And how we maintain connectivity throughout?

We've looked at equitable access. So opportunities within a mile of severely, disadvantaged communities are something that we are really valuing in this report and are bringing to a level of priority.

We have started to take a stab at the more sensitive areas in this area versus ones that might be more focused for access which there is no master plan that says, these are the most sensitive areas for habitat and biological resources – here is where you should build a trail. That has started to develop through this process of which we have taken as a first step and to some zones that we might say, more susceptible to disruption from wildlife if you put a trail here versus a little bit less.

We've looked at project synergy. There is a lot of coordination that has to happen in this region within the State Route 37 in the near-term. So we've weighted opportunities that have the opportunity to piggyback on other transportation projects.

We have looked at identities. So knowing that public awareness is very important for this area, what areas have the opportunity to be a gateway to announce this incredible resource that is here in the North Bay?

And then we have looked at design excellence as a way to understand the intrinsic qualities of this Bay which is a really beautiful area.

All of these have been fed into a set of priority projects that we have developed. And then through working with our local, working group we have developed some key next steps projects that we think are opportunities to pursue further.

We've also developed a phasing plan that looks at, what are some opportunities in the near-term that we can develop? Most of these near-term opportunities are outside of the figure of sea level rise and are a little bit less in areas that are high sensitivity to habitat.

We are really interested in how this starts to roll out in the mid-term, 10 to 25 years to enhance connectivity across these regions. And so we have developed a set of projects that you see on the right.

And then knowing how that all starts to connect with the ultimate 37 Project which will be happening in hopefully our lifetimes but it will be fantastic, Trail amenity fully separated along State Route 37 that provides a lot of connection to through there.

But our focus has been not only to see what typical guidelines and sections can be recommended as far as the ultimate project. We've been working closely with the Bay Trail on a section that would be integral to a causeway section but not at the same level.

We have developed what we are really excited about as some two, near-term opportunities that have risen to the surface. One of them being at Sears Point at the intersection of State Route 37 and Highway 121. There are some great near-term opportunities with two, Caltrans, shop projects that are looking at that intersection and Tully Creek Bridge that we hope to actually incorporate now some opportunities for public access within that.

More importantly there is really important gap between the terminuses of the Sears Point Trail to the Tubbs Island Trail. We also think there are a lot of opportunities at this intersection for enhanced identity, awareness and public education.

The other near-term, priority area that we think is a really great opportunity to look for is at Mare Island, the northern tip of Mare Island. Right now there are some congestion improvements planned for that intersection but no plans to address the sea level rise and flooding. A lot of that Mare Island Inter-change has been flooded and closed periodically during these same events but yet no plans are in place to address that.

The Nimitz Group has taken over as a primary developer for the city of Vallejo on Mare Island but they are very early in their planning process. Vallejo is interested in resiliency planning.

So this opportunity is something that we are thinking as an opportunity that might be more water-based that can adapt with sea level rise while not being heavy on infrastructure while at the same time increasing access opportunities that are more equitable to Solano County and residents of Vallejo.

And so we've been looking at and working with various partners on preliminary steps. But we have started to filter down a very large scope to a set of what we think are really tangible and near-term opportunities that can start to move the needle for public access in this region.

We would like to recommend a typical section for that ultimate project. We would like to pursue some near-term opportunities and make connections around the perimeter of Highway 37. We think it is important to work with the U.S. Fish and Wildlife on the future of Skaggs Island and what their planning process will be. How does access being incorporated into that planning?

And we would encourage additional partnerships like Friends of the San Pablo Baylands. We would communicate a list of these 11 priority projects and then start to meet with local municipalities within Mare Island and Vallejo and then working with Caltrans in the 37 Policy Committee on Sears Point in the future.

So with that I will open it up to questions.

Chair Wasserman asked: Any questions? (No questions were voiced) Seeing none thank you very much and thank you for the good work. We are going to put Items 12 and 13 on the next Commission Agenda.

15. Adjournment. There being no further business Chair Wasserman adjourned the meeting in honor of the late Bruce Wolfe at 4:48 p.m.